

Representative V. Lowry Snow proposes the following substitute bill:

PROTECTIVE ORDER REVISIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies provisions relating to protective orders.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ requires the Administrative Office of the Courts to include an expiration date on a civil protective order form;
- ▶ modifies the time frame within which:
 - an objection to certain civil protective orders must be filed; and
 - certain hearings on a civil protective order must be held;
- ▶ modifies the circumstances under which a violation of a civil protective order is a civil offense;
- ▶ modifies the circumstances under which a provision of a cohabitant abuse protective order may be modified or dismissed during a divorce, parentage, custody, or guardianship proceeding;
- ▶ modifies the day on which a civil provision of a cohabitant abuse protective order expires;
- ▶ adds sexual battery as a qualifying offense for protective orders;



- 26 ▶ provides that jail release agreements and other measures can apply when an
- 27 individual is issued a citation and not arrested;
- 28 ▶ modifies the type of contact prohibited under jail release agreements and orders;
- 29 ▶ establishes procedures for a victim's waiver of jail release agreement conditions;
- 30 ▶ prohibits issuance of a continuous protective order against a minor unless the minor
- 31 is tried as an adult;
- 32 ▶ modifies the expiration dates for criminal protective orders issued against a minor;
- 33 ▶ ~~§~~ → [clarifies] modifies ← ~~§~~ terminology in the Cohabitant Abuse Procedures Act to
- 33a clarify that the act
- 34 applies to a minor; and
- 35 ▶ makes technical and conforming changes.

36 **Money Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 This bill provides a coordination clause.

40 **Utah Code Sections Affected:**

41 AMENDS:

- 42 **53-10-208**, as last amended by Laws of Utah 2020, Chapter 142
- 43 **53-10-208.1**, as last amended by Laws of Utah 2020, Chapter 142
- 44 **76-7-101**, as last amended by Laws of Utah 2020, Chapter 260
- 45 **77-36-1**, as last amended by Laws of Utah 2020, Chapter 142
- 46 **77-36-1.2**, as last amended by Laws of Utah 2020, Chapter 70
- 47 **77-36-2.6**, as last amended by Laws of Utah 2020, Chapter 142
- 48 **77-36-2.7**, as last amended by Laws of Utah 2020, Chapter 142
- 49 **77-36-5**, as last amended by Laws of Utah 2020, Chapter 142
- 50 **77-36-5.1**, as last amended by Laws of Utah 2020, Chapter 142
- 51 **78B-7-105**, as last amended by Laws of Utah 2020, Chapter 142
- 52 **78B-7-108**, as last amended by Laws of Utah 2018, Chapter 255
- 53 **78B-7-203**, as last amended by Laws of Utah 2020, Chapter 142
- 54 **78B-7-405**, as last amended by Laws of Utah 2020, Chapter 142
- 55 **78B-7-408**, as enacted by Laws of Utah 2018, Chapter 255
- 56 **78B-7-505**, as last amended by Laws of Utah 2020, Chapter 142

- 57 **78B-7-603**, as renumbered and amended by Laws of Utah 2020, Chapter 142
- 58 **78B-7-604**, as renumbered and amended by Laws of Utah 2020, Chapter 142
- 59 **78B-7-605**, as renumbered and amended by Laws of Utah 2020, Chapter 142
- 60 **78B-7-606**, as renumbered and amended by Laws of Utah 2020, Chapter 142
- 61 **78B-7-801**, as enacted by Laws of Utah 2020, Chapter 142
- 62 **78B-7-802**, as renumbered and amended by Laws of Utah 2020, Chapter 142
- 63 **78B-7-803**, as enacted by Laws of Utah 2020, Chapter 142
- 64 **78B-7-804**, as enacted by Laws of Utah 2020, Chapter 142
- 65 **78B-7-805**, as enacted by Laws of Utah 2020, Chapter 142

Utah Code Sections Affected by Coordination Clause:

- 67 **78B-7-801**, as enacted by Laws of Utah 2020, Chapter 142
- 68 **78B-7-804**, as enacted by Laws of Utah 2020, Chapter 142
- 69 **78B-7-805**, as enacted by Laws of Utah 2020, Chapter 142

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53-10-208** is amended to read:

53-10-208. Definition -- Offenses included on statewide warrant system --

Transportation fee to be included -- Statewide warrant system responsibility -- Quality control -- Training -- Technical support -- Transaction costs.

(1) "Statewide warrant system" means the portion of the state court computer system that is accessible by modem from the state mainframe computer and contains:

- (a) records of criminal warrant information; and
- (b) after notice and hearing, records of protective orders issued pursuant to:
 - (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;
 - (ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;
 - (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders; [or]
 - (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders[:]; or
 - (v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(2) (a) The division shall include on the statewide warrant system all warrants issued for felony offenses and class A, B, and C misdemeanor offenses in the state.

(b) The division shall include on the statewide warrant system all warrants issued for

88 failure to appear on a traffic citation as ordered by a magistrate under Subsection 77-7-19(3).

89 (c) For each warrant, the division shall indicate whether the magistrate ordered under
90 Section 77-7-5 and Rule 6, Utah Rules of Criminal Procedure, that the accused appear in court.

91 (3) The division is the agency responsible for the statewide warrant system and shall:

92 (a) ensure quality control of all warrants of arrest or commitment and protective orders
93 contained in the statewide warrant system by conducting regular validation checks with every
94 clerk of a court responsible for entering the information on the system;

95 (b) upon the expiration of the protective orders and in the manner prescribed by the
96 division, purge information regarding protective orders described in Subsection
97 53-10-208.1(1)(d) within 30 days of the time after expiration;

98 (c) establish system procedures and provide training to all criminal justice agencies
99 having access to information contained on the state warrant system;

100 (d) provide technical support, program development, and systems maintenance for the
101 operation of the system; and

102 (e) pay data processing and transaction costs for state, county, and city law
103 enforcement agencies and criminal justice agencies having access to information contained on
104 the state warrant system.

105 (4) (a) Any data processing or transaction costs not funded by legislative appropriation
106 shall be paid on a pro rata basis by all agencies using the system during the fiscal year.

107 (b) This Subsection (4) supersedes any conflicting provision in Subsection (3)(e).

108 Section 2. Section 53-10-208.1 is amended to read:

109 **53-10-208.1. Magistrates and court clerks to supply information.**

110 (1) Every magistrate or clerk of a court responsible for court records in this state shall,
111 within 30 days of the disposition and on forms and in the manner provided by the division,
112 furnish the division with information pertaining to:

113 (a) all dispositions of criminal matters, including:

114 (i) guilty pleas;

115 (ii) convictions;

116 (iii) dismissals;

117 (iv) acquittals;

118 (v) pleas held in abeyance;

- 119 (vi) judgments of not guilty by reason of insanity;
- 120 (vii) judgments of guilty with a mental illness;
- 121 (viii) finding of mental incompetence to stand trial; and
- 122 (ix) probations granted;
- 123 (b) orders of civil commitment under the terms of Section 62A-15-631;
- 124 (c) the issuance, recall, cancellation, or modification of all warrants of arrest or
- 125 commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303,
- 126 within one day of the action and in a manner provided by the division; and
- 127 (d) protective orders issued after notice and hearing, pursuant to:
 - 128 (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;
 - 129 (ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;
 - 130 (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders; ~~or~~
 - 131 (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders~~[-];~~ or
 - 132 (v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

133 (2) The court in the county where a determination or finding was made shall transmit a
 134 record of the determination or finding to the bureau no later than 48 hours after the
 135 determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:

- 136 (a) adjudicated as a mental defective; or
- 137 (b) involuntarily committed to a mental institution in accordance with Subsection
- 138 62A-15-631(16).

139 (3) The record described in Subsection (2) shall include:

- 140 (a) an agency record identifier;
- 141 (b) the individual's name, sex, race, and date of birth; and
- 142 (c) the individual's social security number, government issued driver license or
- 143 identification number, alien registration number, government passport number, state
- 144 identification number, or FBI number.

145 Section 3. Section 76-7-101 is amended to read:

146 **76-7-101. Bigamy -- Penalty -- Defense.**

- 147 (1) An individual is guilty of bigamy if:
 - 148 (a) the individual purports to marry another individual; and
 - 149 (b) knows or reasonably should know that one or both of the individuals described in

150 Subsection (1)(a) are legally married to another individual.

151 (2) An individual who violates Subsection (1) is guilty of an infraction.

152 (3) An individual is guilty of a third degree felony if the individual induces bigamy:

153 (a) under fraudulent or false pretenses; or

154 (b) by threat or coercion.

155 (4) An individual is guilty of a second degree felony if the individual:

156 (a) cohabitates with another individual with whom the individual is engaged in bigamy

157 as described in Subsection (1); and

158 (b) in furtherance of the conduct described in Subsection (4)(a), commits a felony
159 offense, or for Subsection (4)(b)(vii), a misdemeanor offense, in violation of one or more of the
160 following:

161 (i) Chapter 5, Part 2, Criminal Homicide;

162 (ii) Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

163 (iii) Chapter 5, Part 4, Sexual Offenses;

164 (iv) Section 76-5-109, child abuse -- child abandonment;

165 (v) Section 76-5-111, abuse, neglect, or exploitation of a vulnerable adult;

166 (vi) Section 76-5-209, child abuse homicide;

167 (vii) Section 76-9-702.1, sexual battery;

168 (viii) Section 76-7-201, criminal nonsupport; [or]

169 (ix) Title 77, Chapter 36, Cohabitant Abuse Procedures Act[-]; or

170 (x) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

171 (5) It is a defense to prosecution under Subsection (2) that:

172 (a) the individual ceased the practice of bigamy as described in Subsection (1) under
173 reasonable fear of coercion or bodily harm;

174 (b) the individual entered the practice of bigamy, as described in Subsection (1), as a
175 minor and ceased the practice of bigamy at any time after the individual entered the practice of
176 bigamy; or

177 (c) law enforcement discovers that the individual practices bigamy, as described in
178 Subsection (1), as a result of the individual's efforts to protect the safety and welfare of another
179 individual.

180 Section 4. Section 77-36-1 is amended to read:

181 **77-36-1. Definitions.**

182 As used in this chapter:

- 183 (1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.
- 184 (2) "Department" means the Department of Public Safety.
- 185 (3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter
186 3, Divorce.
- 187 (4) "Domestic violence" or "domestic violence offense" means any criminal offense
188 involving violence or physical harm or threat of violence or physical harm, or any attempt,
189 conspiracy, or solicitation to commit a criminal offense involving violence or physical harm,
190 when committed by one cohabitant against another. "Domestic violence" or "domestic
191 violence offense" includes commission or attempt to commit, any of the following offenses by
192 one cohabitant against another:
- 193 (a) aggravated assault, as described in Section 76-5-103;
- 194 (b) aggravated cruelty to an animal, as described in Subsection 76-9-301(4), with the
195 intent to harass or threaten the other cohabitant;
- 196 (c) assault, as described in Section 76-5-102;
- 197 (d) criminal homicide, as described in Section 76-5-201;
- 198 (e) harassment, as described in Section 76-5-106;
- 199 (f) electronic communication harassment, as described in Section 76-9-201;
- 200 (g) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections
201 76-5-301, 76-5-301.1, and 76-5-302;
- 202 (h) mayhem, as described in Section 76-5-105;
- 203 (i) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and
204 Section 76-5b-201, Sexual exploitation of a minor -- Offenses;
- 205 (j) stalking, as described in Section 76-5-106.5;
- 206 (k) unlawful detention or unlawful detention of a minor, as described in Section
207 76-5-304;
- 208 (l) violation of a protective order or ex parte protective order, as described in Section
209 76-5-108;
- 210 (m) any offense against property described in Title 76, Chapter 6, Part 1, Property
211 Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6,

212 Part 3, Robbery;

213 (n) possession of a deadly weapon with criminal intent, as described in Section
214 76-10-507;

215 (o) discharge of a firearm from a vehicle, near a highway, or in the direction of any
216 person, building, or vehicle, as described in Section 76-10-508;

217 (p) disorderly conduct, as defined in Section 76-9-102, if a conviction or adjudication
218 of disorderly conduct is the result of a plea agreement in which the [~~defendant~~] perpetrator was
219 originally charged with a domestic violence offense otherwise described in this Subsection (4),
220 except that a conviction or adjudication of disorderly conduct as a domestic violence offense,
221 in the manner described in this Subsection (4)(p), does not constitute a misdemeanor crime of
222 domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18
223 U.S.C. Sec. 921 et seq.;

224 (q) child abuse, as described in Section 76-5-109.1;

225 (r) threatening use of a dangerous weapon, as described in Section 76-10-506;

226 (s) threatening violence, as described in Section 76-5-107;

227 (t) tampering with a witness, as described in Section 76-8-508;

228 (u) retaliation against a witness or victim, as described in Section 76-8-508.3;

229 (v) unlawful distribution of an intimate image, as described in Section 76-5b-203;

230 (w) sexual battery, as described in Section 76-9-702.1;

231 (x) voyeurism, as described in Section 76-9-702.7;

232 (y) damage to or interruption of a communication device, as described in Section
233 76-6-108; or

234 (z) an offense described in Subsection 78B-7-806(1).

235 (5) "Jail release agreement" means the same as that term is defined in Section
236 78B-7-801.

237 (6) "Jail release court order" means the same as that term is defined in Section
238 78B-7-801.

239 (7) "Marital status" means married and living together, divorced, separated, or not
240 married.

241 (8) "Married and living together" means a couple whose marriage was solemnized
242 under Section 30-1-4 or 30-1-6 and who are living in the same residence.

243 (9) "Not married" means any living arrangement other than married and living together,
244 divorced, or separated.

245 (10) "Protective order" includes an order issued under Subsection 78B-7-804(3).

246 (11) "Pretrial protective order" means a written order:

247 (a) specifying and limiting the contact a person who has been charged with a domestic
248 violence offense may have with an alleged victim or other specified individuals; and

249 (b) specifying other conditions of release under Sections 78B-7-802 or 78B-7-803,
250 pending trial in the criminal case.

251 (12) "Sentencing protective order" means a written order of the court as part of
252 sentencing in a domestic violence case that limits the contact [~~a person who has been~~
253 ~~convicted~~] an individual who is convicted or adjudicated of a domestic violence offense may
254 have with a victim or other specified individuals under Section 78B-7-804.

255 (13) "Separated" means a couple who have had their marriage solemnized under
256 Section 30-1-4 or 30-1-6 and who are not living in the same residence.

257 (14) "Victim" means a cohabitant who has been subjected to domestic violence.
258 Section 5. Section 77-36-1.2 is amended to read:

259 **77-36-1.2. Acceptance of a plea of guilty or no contest to domestic violence --**
260 **Restrictions.**

261 [~~(1) For purposes of this section, "qualifying domestic violence offense" means:]~~
262 [~~(a) a domestic violence offense in Utah; or~~]
263 [~~(b) an offense in any other state, or in any district, possession, or territory of the~~
264 ~~United States, that would be a domestic violence offense under Utah law.]~~

265 [(2)] (1) For purposes of this section and Section 77-36-1.1, a plea of guilty or no
266 contest to any domestic violence offense in Utah, which plea is held in abeyance under [Title
267 77,] Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has
268 been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

269 [(3)] (2) (a) Before agreeing to a plea of guilty or no contest, the prosecutor shall
270 examine the criminal history of the [~~defendant~~] perpetrator.

271 (b) An entry of a plea of guilty or no contest to a domestic violence offense is invalid
272 unless the prosecutor agrees to the plea:

273 (i) in open court;

274 (ii) in writing; or
275 (iii) by another means of communication that the court finds adequate to record the
276 prosecutor's agreement.

277 Section 6. Section 77-36-2.6 is amended to read:

278 **77-36-2.6. Appearance required -- Considerations by court.**

279 (1) [~~A defendant who has been~~] An alleged perpetrator who is arrested for an offense
280 involving domestic violence shall appear in person or by video before the court or a magistrate
281 within one judicial day after the day on which the arrest is made.

282 (2) [~~A defendant who has been~~] An alleged perpetrator who is charged by citation,
283 indictment, or information with an offense involving domestic violence but has not been
284 arrested, shall appear before the court in person for arraignment or initial appearance as soon as
285 practicable, but no later than 14 days after the next day on which court is in session following
286 the issuance of the citation or the filing of the indictment or information.

287 (3) At the time of an appearance under Subsection (1) or (2), the court shall consider
288 imposing a pretrial protective order in accordance with Section 78B-7-803.

289 (4) Appearances required by this section are mandatory and may not be waived.

290 Section 7. Section 77-36-2.7 is amended to read:

291 **77-36-2.7. Dismissal -- Diversion prohibited -- Plea in abeyance -- Pretrial**
292 **protective order pending trial.**

293 (1) Because of the serious nature of domestic violence, the court, in domestic violence
294 actions:

295 (a) may not dismiss any charge or delay disposition because of concurrent divorce or
296 other civil proceedings;

297 (b) may not require proof that either party is seeking a dissolution of marriage before
298 instigation of criminal proceedings;

299 (c) shall waive any requirement that the victim's location be disclosed other than to the
300 [~~defendant's~~] alleged perpetrator's attorney and order the [~~defendant's~~] alleged perpetrator's
301 attorney not to disclose the victim's location to the client;

302 (d) shall identify, on the docket sheets, the criminal actions arising from acts of
303 domestic violence; and

304 (e) may hold a plea in abeyance, in accordance with the provisions of Chapter 2a, Pleas

305 in Abeyance, making treatment or any other requirement for the [~~defendant~~] alleged perpetrator
306 a condition of that status.

307 (2) When the court holds a plea in abeyance in accordance with Subsection (1)(e), the
308 case against a perpetrator of domestic violence may be dismissed only if the perpetrator
309 successfully completes all conditions imposed by the court. If the [~~defendant~~] perpetrator fails
310 to complete any condition imposed by the court under Subsection (1)(e), the court may accept
311 the [~~defendant's~~] perpetrator's plea.

312 (3) When [~~a defendant~~] an alleged perpetrator is charged with a crime involving a
313 qualifying offense, as defined in Section 78B-7-801, the court may, during any court hearing
314 where the [~~defendant~~] alleged perpetrator is present, issue a pretrial protective order in
315 accordance with Section 78B-7-803.

316 (4) (a) When a court dismisses criminal charges or a prosecutor moves to dismiss
317 charges against [~~a defendant accused~~] an alleged perpetrator of a domestic violence offense, the
318 specific reasons for dismissal shall be recorded in the court file and made a part of any related
319 order or agreement on the statewide domestic violence network described in Section
320 78B-7-113.

321 (b) The court shall transmit the dismissal to the statewide domestic violence network.

322 (c) Any pretrial protective orders, including jail release court orders and jail release
323 agreements, related to the dismissed domestic violence criminal charge shall also be dismissed.

324 (5) The court may not approve diversion for a perpetrator of domestic violence.

325 Section 8. Section 77-36-5 is amended to read:

326 **77-36-5. Sentencing -- Restricting contact with victim -- Electronic monitoring --**
327 **Counseling -- Cost assessed against perpetrator -- Sentencing protective order --**
328 **Continuous protective order.**

329 (1) When a [~~defendant~~] perpetrator is found guilty of a crime involving domestic
330 violence and a condition of the sentence restricts the [~~defendant's~~] perpetrator's contact with the
331 victim, a sentencing protective order may be issued under Section 78B-7-804 for the length of
332 the [~~defendant's~~] perpetrator's probation or a continuous protective order may be issued under
333 Section 78B-7-804.

334 (2) In determining the court's sentence, the court, in addition to penalties otherwise
335 provided by law, may require the [~~defendant~~] perpetrator to participate in an electronic or other

336 type of monitoring program.

337 (3) The court may also require the [~~defendant~~] perpetrator to pay all or part of the costs
338 of counseling incurred by the victim and any children affected by or exposed to the domestic
339 violence offense, as well as the costs for the [~~defendant's~~] perpetrator's own counseling.

340 (4) The court shall:

341 (a) assess against the [~~defendant~~] perpetrator, as restitution, any costs for services or
342 treatment provided to the victim and affected [~~children~~] child of the victim or the [~~defendant~~]
343 perpetrator by the Division of Child and Family Services under Section 62A-4a-106; and

344 (b) order those costs to be paid directly to the division or its contracted provider.

345 (5) The court may order the [~~defendant~~] perpetrator to obtain and satisfactorily
346 complete treatment or therapy in a domestic violence treatment program, as defined in Section
347 62A-2-101, that is licensed by the Department of Human Services.

348 Section 9. Section 77-36-5.1 is amended to read:

349 **77-36-5.1. Conditions of probation for domestic violence offense.**

350 (1) Before [~~any~~] a perpetrator who [~~has been~~] is convicted or adjudicated of a domestic
351 violence offense may be placed on probation, the court shall consider the safety and protection
352 of the victim and any member of the victim's family or household.

353 (2) The court may condition probation or a plea in abeyance on the perpetrator's
354 compliance with one or more orders of the court, which may include:

355 (a) a sentencing protective order issued [~~in accordance with~~] under Section 78B-7-804;

356 (b) prohibiting the perpetrator from possessing or consuming alcohol or controlled
357 substances;

358 (c) prohibiting the perpetrator from purchasing, using, or possessing a firearm or other
359 specified weapon;

360 (d) directing the perpetrator to surrender any weapons the perpetrator owns or
361 possesses;

362 (e) directing the perpetrator to participate in and complete, to the satisfaction of the
363 court, a program of intervention for perpetrators, treatment for alcohol or substance abuse, or
364 psychiatric or psychological treatment;

365 (f) directing the perpetrator to pay restitution to the victim, enforcement of which shall
366 be in accordance with Chapter 38a, Crime Victims Restitution Act; and

367 (g) imposing any other condition necessary to protect the victim and any other
368 designated family or household member or to rehabilitate the perpetrator.

369 (3) The perpetrator is responsible for the costs of any condition of probation, according
370 to the perpetrator's ability to pay.

371 (4) (a) Adult Probation and Parole, or other provider, shall immediately report to the
372 court and notify the victim of any offense involving domestic violence committed by the
373 perpetrator, the perpetrator's failure to comply with any condition imposed by the court, and
374 any violation of a sentencing protective order issued by the court under Section 78B-7-804.

375 (b) Notification of the victim under Subsection (4)(a) shall consist of a good faith
376 reasonable effort to provide prompt notification, including mailing a copy of the notification to
377 the last-known address of the victim.

378 (5) In addition to a protective order issued under this section, the court may issue a
379 separate order relating to the transfer of a wireless telephone number in accordance with
380 Section 78B-7-117.

381 Section 10. Section 78B-7-105 is amended to read:

382 **78B-7-105. Forms for petitions, civil protective orders, and civil stalking**
383 **injunctions -- Assistance -- Fees.**

384 (1) (a) The offices of the court clerk shall provide forms to an individual seeking any of
385 the following under this chapter:

- 386 (i) an ex parte civil protective order;
- 387 (ii) a civil protective order;
- 388 (iii) an ex parte stalking injunction; or
- 389 (iv) a civil stalking injunction.

390 (b) The Administrative Office of the Courts shall:

391 (i) develop and adopt uniform forms for petitions and the protective orders and stalking
392 injunctions described in Subsection (1)(a) in accordance with the provisions of this chapter;

393 and

394 (ii) provide the forms to the clerk of each court authorized to issue the protective orders
395 and stalking injunctions described in Subsection (1)(a).

396 (2) The forms described in Subsection (1)(b) shall include:

397 (a) for a petition for an ex parte civil protective order or a civil protective order:

398 (i) a statement notifying the petitioner for an ex parte civil protective order that
399 knowing falsification of any statement or information provided for the purpose of obtaining a
400 civil protective order may subject the petitioner to felony prosecution;

401 (ii) language indicating the criminal penalty for a violation of an ex parte civil
402 protective order or a civil protective order under this chapter and language stating a violation of
403 or failure to comply with a civil provision is subject to contempt proceedings;

404 (iii) a space for information the petitioner is able to provide to facilitate identification
405 of the respondent, including the respondent's social security number, driver license number,
406 date of birth, address, telephone number, and physical description;

407 (iv) a space for information the petitioner is able to provide related to a proceeding for
408 a civil protective order or a criminal protective order, civil litigation, a proceeding in juvenile
409 court, or a criminal case involving either party, including the case name, file number, the
410 county and state of the proceeding, and the judge's name; ~~and~~

411 (v) a space to indicate whether the party to be protected is an intimate partner to the
412 respondent or a child of an intimate partner to the respondent; and

413 (vi) a space for the date on which the provisions of the protective order expire; and

414 (b) for a petition under Part 6, Cohabitant Abuse Protective Orders:

415 (i) a separate portion of the form for those provisions, the violation of which is a
416 criminal offense, and a separate portion for those provisions, the violation of which is a civil
417 violation;

418 (ii) a statement advising the petitioner that when a child is included in an ex parte
419 protective order or a protective order, as part of either the criminal or the civil portion of the
420 order, the petitioner may provide a copy of the order to the principal of the school that the child
421 attends; and

422 (iii) a statement advising the petitioner that if the respondent fails to return custody of a
423 minor child to the petitioner as ordered in a protective order, the petitioner may obtain from the
424 court a writ of assistance.

425 (3) If the individual seeking to proceed as a petitioner under this chapter is not
426 represented by an attorney, the court clerk's office shall provide nonlegal assistance, including:

427 (a) the forms adopted under Subsection (1)(b);

428 (b) all other forms required to petition for a protective order or stalking injunction

429 described in Subsection (1)(a), including forms for service;

430 (c) clerical assistance in filling out the forms and filing the petition, or if the court
431 clerk's office designates another entity, agency, or person to provide that service, oversight over
432 the entity, agency, or person to see that the service is provided;

433 (d) information regarding the means available for the service of process;

434 (e) a list of legal service organizations that may represent the petitioner in an action
435 brought under this chapter, together with the telephone numbers of those organizations; and

436 (f) written information regarding the procedure for transporting a jailed or imprisoned
437 respondent to the protective order hearing, including an explanation of the use of transportation
438 order forms when necessary.

439 (4) A court clerk, constable, or law enforcement agency may not impose a charge for:

440 (a) filing a petition under this chapter;

441 (b) obtaining an ex parte civil protective order or ex parte civil stalking injunction;

442 (c) obtaining copies, either certified or uncertified, necessary for service or delivery to
443 law enforcement officials; or

444 (d) fees for service of:

445 (i) a petition under this chapter;

446 (ii) an ex parte civil protective order;

447 (iii) a civil protective order;

448 (iv) an ex parte civil stalking injunction; or

449 (v) a civil stalking injunction.

450 (5) A petition for an ex parte civil protective order and a civil protective order shall be
451 in writing and verified.

452 (6) (a) The protective orders and stalking injunctions described in Subsection (1)(a)
453 shall be issued in the form adopted by the Administrative Office of the Courts under
454 Subsection (1)(b).

455 (b) A civil protective order that is issued shall, if applicable, include the following
456 language:

457 "Respondent was afforded both notice and opportunity to be heard in the hearing that
458 gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322,
459 108 Stat. 1796, 18 U.S.C. Sec. 2265, this order is valid in all the United States, the District of

460 Columbia, tribal lands, and United States territories. This order complies with the Uniform
461 Interstate Enforcement of Domestic Violence Protection Orders Act.".

462 (c) An ex parte civil protective order and a civil protective order issued under Part 6,
463 Cohabitant Abuse Protective Orders, shall include the following language:

464 "NOTICE TO PETITIONER: The court may amend or dismiss a protective order after
465 one year if it finds that the basis for the issuance of the protective order no longer exists and the
466 petitioner has repeatedly acted in contravention of the protective order provisions to
467 intentionally or knowingly induce the respondent to violate the protective order, demonstrating
468 to the court that the petitioner no longer has a reasonable fear of the respondent.".

469 (d) A child protective order issued under Part 2, Child Protective Orders, shall include:

470 (i) the date the order expires; and

471 (ii) a statement that the address provided by the petitioner will not be made available to
472 the respondent.

473 (7) (a) (i) The court clerk shall provide, without charge, to the petitioner, one certified
474 copy of a civil stalking injunction issued by the court and one certified copy of the proof of
475 service of the civil stalking injunction on the respondent.

476 (ii) A charge may be imposed by the court clerk's office for any copies in addition to
477 the copy described in Subsection (7)(a)(i), certified or uncertified.

478 (b) An ex parte civil stalking injunction and civil stalking injunction shall include the
479 following statement:

480 "Attention: This is an official court order. If you disobey this order, the court may find
481 you in contempt. You may also be arrested and prosecuted for the crime of stalking and any
482 other crime you may have committed in disobeying this order.".

483 Section 11. Section **78B-7-108** is amended to read:

484 **78B-7-108. Mutual protective orders.**

485 (1) A court may not grant a mutual order or mutual [~~orders for protection~~] civil
486 protective orders to opposing parties, unless each party:

487 (a) files an independent petition against the other for a civil protective order, and both
488 petitions are served;

489 (b) makes a showing at a due process civil protective order hearing of abuse or
490 domestic violence committed by the other party; and

491 (c) demonstrates the abuse or domestic violence did not occur in self-defense.

492 (2) If the court issues mutual civil protective orders, the court shall include specific
493 findings of all elements of Subsection (1) in the court order justifying the entry of the court
494 order.

495 (3) (a) ~~[(A)]~~ Except as provided in Subsection (3)(b), a court may not grant [an order for
496 protection to a civil petitioner] a civil protective order to a petitioner who is the respondent or
497 defendant subject to a protective order, child protective order, or ex parte child protective
498 order:

499 ~~[(a)]~~ (i) issued under:

500 ~~[(i) a foreign protection order enforceable under Chapter 7, Part 3, Uniform Interstate~~
501 ~~Enforcement of Domestic Violence Protection Orders Act;]~~

502 ~~[(ii)]~~ (A) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

503 ~~[(iii)]~~ (B) Title 78A, Chapter 6, Juvenile Court Act; ~~[(or)]~~

504 ~~[(iv) Chapter 7, Part 1, Cohabitant Abuse Act; and]~~

505 (C) Part 6, Cohabitant Abuse Protective Orders; or

506 (D) Part 8, Criminal Protective Orders; or

507 (ii) enforceable under Part 3, Uniform Interstate Enforcement of Domestic Violence
508 Protection Orders Act.

509 (b) ~~[(unless)]~~ The court may grant a civil protective order to a petitioner described in
510 Subsection (3)(a) if:

511 (i) the court determines that the requirements of Subsection (1) are met~~[, and:];~~ and

512 ~~[(+)]~~ (ii) (A) the same court ~~[issued the order for protection]~~ that issued the protective
513 order, child protective order, or ex parte child protective order issues the civil protective order
514 against the respondent; or

515 ~~[(+)]~~ (B) if the matter is before a subsequent court, the subsequent court~~[:-(A)]~~

516 determines it would be impractical for the original court to consider the matter~~[:];~~ or ~~[(+)]~~

517 confers with the court that issued the ~~[order for protection]~~ protective order, child protective
518 order, or ex parte child protective order.

519 Section 12. Section **78B-7-203** is amended to read:

520 **78B-7-203. Hearings.**

521 (1) (a) If an ex parte child protective order is granted, the court shall schedule a hearing

522 to be held within [20] 21 days after the day on which the court makes the ex parte
523 determination.

524 (b) If an ex parte child protective order is denied, the court, upon the request of the
525 petitioner made within five days after the day on which the court makes the ex parte
526 determination, shall schedule a hearing to be held within [20] 21 days after the day on which
527 the petitioner makes the request.

528 (2) (a) The petition, ex parte child protective order, and notice of hearing shall be
529 served on the respondent, the child's parent or guardian, and, if appointed, the guardian ad
530 litem.

531 (b) The notice of hearing described in Subsection (2)(a) shall contain:

532 [~~(a)~~] (i) the name and address of the individual to whom the notice is directed;

533 [~~(b)~~] (ii) the date, time, and place of the hearing;

534 [~~(c)~~] (iii) the name of the child on whose behalf a petition is being brought; and

535 [~~(d)~~] (iv) a statement that an individual is entitled to have an attorney present at the
536 hearing.

537 (3) The court shall provide an opportunity for any person having relevant knowledge to
538 present evidence or information and may hear statements by counsel.

539 (4) An agent of the division served with a subpoena in compliance with the Utah Rules
540 of Civil Procedure shall testify in accordance with the Utah Rules of Evidence.

541 (5) The court shall issue a child protective order if the court determines, based on a
542 preponderance of the evidence, that:

543 (a) for a petition for a child protective order filed under Subsection [78B-7-202\(1\)\(a\)\(i\)](#),
544 the child is being abused or is in imminent danger of being abused; or

545 (b) for a petition for a protective order filed under Subsection [78B-7-202\(1\)\(a\)\(ii\)](#), the
546 child has been abused and the child protective order is necessary to protect the child.

547 (6) [~~With the exception of the provisions of~~] Except as provided in Section [78A-6-323](#),
548 a child protective order is not an adjudication of abuse, neglect, or dependency under Title
549 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

550 Section 13. Section **78B-7-405** is amended to read:

551 **78B-7-405. Hearings -- Expiration -- Extension.**

552 (1) (a) The court shall set a date for a hearing on the petition for a dating violence

553 protective order to be held within ~~[20]~~ 21 days after the day on which the court issues an ex
554 parte dating violence protective order.

555 (b) If, at the hearing described in Subsection (1)(a), the court does not issue a dating
556 violence protective order, the ex parte dating protective order shall expire, unless ~~[the dating~~
557 ~~violence protective order is]~~ extended by the court.

558 (c) (i) ~~[Extensions beyond the 20-day period may not be granted unless]~~ The court may
559 extend the 21-day period described in Subsection (1)(a) only if:

560 [(i)] (A) the petitioner is unable to be present at the hearing;

561 [(ii)] (B) the respondent has not been served; or

562 [(iii)] (C) exigent circumstances exist.

563 [(e)] (ii) Under no circumstances may an ex parte dating violence protective order be
564 extended beyond 180 days from the day on which the court issues the initial ex parte dating
565 violence protective order.

566 (d) If, at the hearing described in Subsection (1)(a), the court issues a dating violence
567 protective order, the ex parte dating violence protective order shall remain in effect until
568 service of process of the dating violence protective order is completed.

569 (e) A dating violence protective order ~~[issued after notice and a hearing shall remain]~~
570 remains in effect for three years after the day on which the ~~[order is issued]~~ court issues the
571 order.

572 (f) If the hearing ~~[on the petition is heard]~~ described in Subsection (1)(a) is held by a
573 commissioner, ~~[either]~~ the petitioner or respondent may file an objection within ~~[10]~~ 14
574 calendar days after the day on which the ~~[recommended order is entered]~~ commissioner
575 recommends the order, and, if the petitioner or respondent requests a hearing be held, the
576 assigned judge shall hold a hearing on the objection within ~~[20]~~ 21 days after the day on which
577 the objection is filed.

578 (2) Upon a hearing under this section, the court may grant any of the relief permitted
579 under Section [78B-7-404](#), except the court shall not grant the relief described in Subsection
580 [78B-7-404\(3\)\(b\)](#) without providing the respondent notice and an opportunity to be heard.

581 (3) If ~~[a]~~ the court denies a petition for an ex parte dating violence protective order or a
582 petition to modify a dating violence protective order ex parte, the court shall, upon the
583 petitioner's request made within five days after the day on which the court denies the petition:

584 (a) set the matter for a hearing to be held within [20] 21 days after the day on which the
585 petitioner makes the request; and

586 (b) notify and serve the respondent.

587 (4) (a) A dating violence protective order automatically expires [~~as described in~~] under
588 Subsection (1)(e), unless the petitioner files a motion before the day on which the dating
589 violence protective order expires requesting an extension of the dating violence protective
590 order and demonstrates that:

591 [~~(a)~~] (i) there is a substantial likelihood the petitioner will be subjected to dating
592 violence; or

593 [~~(b)~~] (ii) the respondent committed or was convicted of a violation of the dating
594 violence protective order that the petitioner requests be extended or dating violence after the
595 day on which the dating violence protective order is issued.

596 (b) (i) If the court denies the motion described in Subsection (4)(a), the dating violence
597 protective order expires under Subsection (1)(e).

598 [~~(5)(a)~~] (ii) If the court grants the motion [~~under~~] described in Subsection (4)(a), the
599 court shall set a new date on which the dating violence protective order expires.

600 [~~(b) The dating violence protective order shall expire on the date set by the court unless~~
601 ~~the petitioner files a motion described in Subsection (4) to extend the dating violence~~
602 ~~protective order.]~~

603 Section 14. Section **78B-7-408** is amended to read:

604 **78B-7-408. Duties of law enforcement officers -- Notice to victims.**

605 (1) A law enforcement officer who responds to an allegation of dating violence shall
606 use all reasonable means to protect the victim and prevent further violence, including:

607 (a) taking action that, in the officer's discretion, is reasonably necessary to provide for
608 the safety of the victim and any family or household member;

609 (b) confiscating the weapon or weapons involved in the alleged dating violence;

610 (c) making arrangements for the victim and any child to obtain emergency housing or
611 shelter;

612 (d) providing protection while the victim removes essential personal effects;

613 (e) arranging, facilitating, or providing for the victim and any child to obtain medical
614 treatment; and

615 (f) arranging, facilitating, or providing the victim with immediate and adequate notice
616 of the rights of victims and of the remedies and services available to victims of dating violence,
617 in accordance with Subsection (2).

618 (2) (a) A law enforcement officer shall give written notice to the victim in simple
619 language, describing the rights and remedies available under this chapter.

620 (b) The written notice shall also include:

621 (i) a statement that the forms needed in order to obtain [~~an order for protection~~] a
622 protective order are available from the court clerk's office in the judicial district where the
623 victim resides or is temporarily domiciled; and

624 (ii) a list of shelters, services, and resources available in the appropriate community,
625 together with telephone numbers, to assist the victim in accessing any needed assistance.

626 (3) If a weapon is confiscated under this section, the law enforcement agency shall
627 return the weapon to the individual from whom the weapon is confiscated if a dating protective
628 order is not issued or once the dating protective order is terminated.

629 Section 15. Section **78B-7-505** is amended to read:

630 **78B-7-505. Hearings -- Expiration -- Extension.**

631 (1) (a) The court shall set a date for a hearing on the petition for a sexual violence
632 protective order to be held within [~~20~~] 21 days after the day on which the court issues an ex
633 parte protective order.

634 (b) If, at the hearing described in Subsection (1)(a), the court does not issue a sexual
635 violence protective order, the ex parte sexual protective order expires, unless extended by the
636 [~~district~~] court.

637 (c) The court may extend the [~~20-day~~] 21-day period described in Subsection (1)(a)
638 only if:

639 (i) a party is unable to be present at the hearing for good cause, established by the
640 party's sworn affidavit;

641 (ii) the respondent has not been served; or

642 (iii) exigent circumstances exist.

643 (d) If, at the hearing described in Subsection (1)(a), the court issues a sexual violence
644 protective order, the ex parte sexual violence protective order remains in effect until service of
645 process of the sexual violence protective order is completed.

646 (e) A sexual violence protective order remains in effect for three years after the day on
647 which the court issues the order.

648 (f) If the hearing described in Subsection (1)(a) is held by a commissioner, the
649 petitioner or respondent may file an objection within [~~10~~] 14 calendar days after the day on
650 which the commissioner [~~enters the recommended~~] recommends the order, and, if the petitioner
651 or respondent requests a hearing be held, the assigned judge shall hold a hearing on the
652 objection within [~~20~~] 21 days after the day on which the objection is filed.

653 (2) If the court denies a petition for an ex parte sexual violence protective order or a
654 petition to modify a sexual violence protective order ex parte, the court shall, upon the
655 petitioner's request made within five days after the day on which the court denies the petition:

656 (a) set the matter for hearing to be held within [~~20~~] 21 days after the day on which the
657 petitioner makes the request; and

658 (b) notify and serve the respondent.

659 (3) (a) A sexual violence protective order automatically expires under Subsection
660 (1)(e) unless the petitioner files a motion before the day on which the sexual violence
661 protective order expires requesting an extension of the sexual violence protective order and
662 demonstrates that:

663 (i) there is a substantial likelihood the petitioner will be subjected to sexual violence;
664 or

665 (ii) the respondent committed or was convicted of a violation of the sexual violence
666 protective order that the petitioner requests be extended or a sexual violence offense after the
667 day on which the sexual violence protective order is issued.

668 (b) (i) If the court denies the motion described in Subsection (3)(a), the sexual violence
669 protective order expires under Subsection (1)(e).

670 (ii) If the court grants the motion described in Subsection (3)(a), the court shall set a
671 new date on which the sexual violence protective order expires.

672 (iii) A sexual violence protective order that is extended under this Subsection (3), may
673 not be extended for more than three years after the day on which the court issues the order for
674 extension.

675 (c) After the day on which the court issues an extension of a sexual violence protective
676 order, the court shall take the action described in Subsection [78B-7-504\(6\)](#).

677 (4) Nothing in this part prohibits a petitioner from seeking another protective order
678 after the day on which the petitioner's protective order expires.

679 Section 16. Section **78B-7-603** is amended to read:

680 **78B-7-603. Cohabitant abuse protective orders -- Ex parte cohabitant abuse**
681 **protective orders -- Modification and dismissal of orders -- Service of process -- Duties of**
682 **the court.**

683 (1) If it appears from a petition for a protective order or a petition to modify a
684 protective order that domestic violence or abuse has occurred, that there is a substantial
685 likelihood domestic violence or abuse will occur, or that a modification of a protective order is
686 required, a court may:

687 (a) without notice, immediately issue an ex parte cohabitant abuse protective order or
688 modify a protective order ex parte as the court considers necessary to protect the petitioner and
689 all parties named to be protected in the petition; or

690 (b) upon notice, issue a protective order or modify an order after a hearing, regardless
691 of whether the respondent appears.

692 (2) A court may grant the following relief without notice in a protective order or a
693 modification issued ex parte:

694 (a) enjoin the respondent from threatening to commit domestic violence or abuse,
695 committing domestic violence or abuse, or harassing the petitioner or any designated family or
696 household member;

697 (b) prohibit the respondent from telephoning, contacting, or otherwise communicating
698 with the petitioner or any designated family or household member, directly or indirectly, with
699 the exception of any parent-time provisions in the ex parte order;

700 (c) subject to Subsection (2)(e), prohibit the respondent from being within a specified
701 distance of the petitioner;

702 (d) subject to Subsection (2)(e), order that the respondent is excluded from and is to
703 stay away from the following places and their premises:

704 (i) the petitioner's residence or any designated family or household member's residence;

705 (ii) the petitioner's school or any designated family or household member's school;

706 (iii) the petitioner's or any designated family or household member's place of
707 employment;

708 (iv) the petitioner's place of worship or any designated family or household member's
709 place of worship; or

710 (v) any specified place frequented by the petitioner or any designated family or
711 household member;

712 (e) if the petitioner or designated family or household member attends the same school
713 as the respondent, is employed at the same place of employment as the respondent, or attends
714 the same place of worship, the court:

715 (i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent
716 from the respondent's school, place of employment, or place of worship; and

717 (ii) may enter an order governing the respondent's conduct at the respondent's school,
718 place of employment, or place of worship;

719 (f) upon finding that the respondent's use or possession of a weapon may pose a serious
720 threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a
721 firearm or other weapon specified by the court;

722 (g) order possession and use of an automobile and other essential personal effects, and
723 direct the appropriate law enforcement officer to accompany the petitioner to the residence of
724 the parties to ensure that the petitioner is safely restored to possession of the residence,
725 automobile, and other essential personal effects, or to supervise the petitioner's or respondent's
726 removal of personal belongings;

727 (h) order the respondent to maintain an existing wireless telephone contract or account;

728 (i) grant to the petitioner or someone other than the respondent temporary custody of a
729 minor child of the parties;

730 (j) order the appointment of an attorney guardian ad litem under Sections [78A-2-703](#)
731 and [78A-6-902](#);

732 (k) order any further relief that the court considers necessary to provide for the safety
733 and welfare of the petitioner and any designated family or household member; and

734 (l) if the petition requests child support or spousal support, at the hearing on the
735 petition order both parties to provide verification of current income, including year-to-date pay
736 stubs or employer statements of year-to-date or other period of earnings, as specified by the
737 court, and complete copies of tax returns from at least the most recent year.

738 (3) A court may grant the following relief in a cohabitant abuse protective order or a

739 modification of an order after notice and hearing, regardless of whether the respondent appears:

740 (a) grant the relief described in Subsection (2); and

741 (b) specify arrangements for parent-time of any minor child by the respondent and

742 require supervision of that parent-time by a third party or deny parent-time if necessary to

743 protect the safety of the petitioner or child.

744 (4) In addition to the relief granted under Subsection (3), the court may order the

745 transfer of a wireless telephone number in accordance with Section 78B-7-117.

746 (5) Following the cohabitant abuse protective order hearing, the court shall:

747 (a) as soon as possible, deliver the order to the county sheriff for service of process;

748 (b) make reasonable efforts to ensure that the cohabitant abuse protective order is

749 understood by the petitioner, and the respondent, if present;

750 (c) transmit electronically, by the end of the next business day after the order is issued,

751 a copy of the cohabitant abuse protective order to the local law enforcement agency or agencies

752 designated by the petitioner;

753 (d) transmit a copy of the order to the statewide domestic violence network described

754 in Section 78B-7-113; and

755 (e) if the individual is a respondent or defendant subject to a court order that meets the

756 qualifications outlined in 18 U.S.C. Sec. 922(g)(8), transmit within 48 hours, excluding

757 Saturdays, Sundays, and legal holidays, a record of the order to the Bureau of Criminal

758 Identification that includes:

759 (i) an agency record identifier;

760 (ii) the individual's name, sex, race, and date of birth;

761 (iii) the issue date, conditions, and expiration date for the protective order; and

762 (iv) if available, the individual's social security number, government issued driver

763 license or identification number, alien registration number, government passport number, state

764 identification number, or FBI number.

765 (6) Each protective order shall include two separate portions, one for provisions, the

766 violation of which are criminal offenses, and one for provisions, the violation of which are civil

767 [~~violations~~] offenses, as follows:

768 (a) criminal offenses are those under Subsections (2)(a) through (g), and under

769 Subsection (3)(a) as it refers to Subsections (2)(a) through (g); and

770 (b) civil offenses are those under Subsections (2)(h)~~[-(j), (k), and]~~ through (l), [and]
771 Subsection (3)(a) as it refers to Subsections (2)(h)~~[-(j), (k), and (l)] through (l), and Subsection~~
772 (3)(b).

773 (7) Child support and spouse support orders issued as part of a protective order are
774 subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income
775 Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non
776 IV-D Cases, except when the protective order is issued ex parte.

777 (8) (a) The county sheriff that receives the order from the court, under Subsection ~~[(6)]~~
778 (5), shall provide expedited service for protective orders issued in accordance with this part,
779 and shall transmit verification of service of process, when the order has been served, to the
780 statewide domestic violence network described in Section [78B-7-113](#).

781 (b) This section does not prohibit any law enforcement agency from providing service
782 of process if that law enforcement agency:

783 (i) has contact with the respondent and service by that law enforcement agency is
784 possible; or

785 (ii) determines that under the circumstances, providing service of process on the
786 respondent is in the best interests of the petitioner.

787 (9) (a) When an order is served on a respondent in a jail or other holding facility, the
788 law enforcement agency managing the facility shall make a reasonable effort to provide notice
789 to the petitioner at the time the respondent is released from incarceration.

790 (b) Notification of the petitioner shall consist of a good faith reasonable effort to
791 provide notification, including mailing a copy of the notification to the last-known address of
792 the victim.

793 (10) A court may modify or vacate a protective order or any provisions in the
794 protective order after notice and hearing, except that the criminal provisions of a cohabitant
795 abuse protective order may not be vacated within two years of issuance unless the petitioner:

796 (a) is personally served with notice of the hearing, as provided in the Utah Rules of
797 Civil Procedure, and the petitioner personally appears, in person or through court video
798 conferencing, before the court and gives specific consent to the vacation of the criminal
799 provisions of the cohabitant abuse protective order; or

800 (b) submits a verified affidavit, stating agreement to the vacation of the criminal

801 provisions of the cohabitant abuse protective order.

802 (11) A protective order may be modified without a showing of substantial and material
803 change in circumstances.

804 (12) A civil provision of a ~~[cohabitant abuse]~~ protective order described in Subsection
805 (6) may be dismissed or modified at any time in a divorce, parentage, custody, or guardianship
806 proceeding that is pending between the parties to the ~~[cohabitant abuse]~~ protective order action
807 ~~[after 150 days after the day on which the cohabitant abuse protective order is issued]~~ if:

808 (a) the parties stipulate in writing or on the record to dismiss or modify a civil
809 provision of the ~~[cohabitant abuse]~~ protective order; or

810 (b) the court in the divorce, parentage, custody, or guardianship proceeding finds good
811 cause to dismiss or modify the civil provision.

812 Section 17. Section **78B-7-604** is amended to read:

813 **78B-7-604. Hearings.**

814 (1) (a) ~~[When a court issues an ex parte cohabitant abuse protective order the]~~ The
815 court shall set a date for a hearing on the petition for a cohabitant abuse protective order to be
816 held within ~~[20]~~ 21 days after the day on which the court issues an ex parte cohabitant abuse
817 protective order ~~[is issued]~~.

818 (b) If, at ~~[that]~~ the hearing described in Subsection (1)(a), the court does not issue a
819 protective order, the ex parte cohabitant abuse protective order ~~[shall expire, unless the~~
820 ~~cohabitant abuse protective order is otherwise extended by the court. Extensions beyond the~~
821 ~~20-day period may not be granted unless:]~~ expires, unless extended by the court.

822 (c) (i) The court may extend the 21-day period described in Subsection (1)(a) only if:

823 ~~[(i)]~~ (A) the petitioner is unable to be present at the hearing;

824 ~~[(ii)]~~ (B) the respondent has not been served;

825 ~~[(iii)]~~ (C) the respondent has had the opportunity to present a defense at the hearing;

826 ~~[(iv)]~~ (D) the respondent requests that the ex parte cohabitant abuse protective order be
827 extended; or

828 ~~[(v)]~~ (E) exigent circumstances exist.

829 ~~[(e)]~~ (ii) Under no circumstances may an ex parte cohabitant abuse protective order be
830 extended beyond 180 days from the day on which the court issues the initial ex parte cohabitant
831 abuse protective order.

832 (d) If, at that hearing described in Subsection (1)(a), the court issues a cohabitant abuse
833 protective order, the ex parte cohabitant abuse protective order remains in effect until service of
834 process of the protective order is completed.

835 (e) A cohabitant abuse protective order issued after notice and a hearing is effective
836 until further order of the court.

837 (f) If the hearing [~~on the petition is heard~~] described in Subsection (1)(a) is held by a
838 commissioner, [~~either~~] the petitioner or respondent may file an objection within [~~10~~] 14 days
839 after the day on which the [~~recommended~~] commissioner recommends the order, and, if the
840 petitioner or respondent requests a hearing be held, the assigned judge shall hold a hearing
841 within [~~20~~] 21 days after the day on which the objection is filed.

842 (2) Upon a hearing under this section, the court may grant any of the relief described in
843 Section 78B-7-603.

844 (3) [~~When a court denies a petition~~] If the court denies a petition for an ex parte
845 cohabitant abuse protective order or a petition to modify a protective order ex parte, the court
846 shall, upon the request of the petitioner made within five days after the day on which the court
847 denies the petition[~~, the court shall~~]:

848 (a) set the matter for hearing to be held within [~~20~~] 21 days after the day on which the
849 petitioner makes the request; and

850 (b) notify [~~the petitioner~~] and serve the respondent.

851 (4) (a) A respondent who has been served with an ex parte cohabitant abuse protective
852 order may seek to vacate the ex parte cohabitant abuse protective order [~~under~~] described in
853 Subsection (1)(a) by filing a verified motion to vacate before the day on which the hearing is
854 set.

855 (b) The respondent's verified motion to vacate described in Subsection (4)(a) and a
856 notice of hearing on [~~that~~] the motion shall be personally served on the petitioner at least two
857 days before the day on which the hearing on the motion to vacate is set.

858 Section 18. Section **78B-7-605** is amended to read:

859 **78B-7-605. Dismissal.**

860 (1) The court may amend or dismiss a protective order issued in accordance with this
861 part that has been in effect for at least one year if the court finds that:

862 (a) the basis for the issuance of the protective order no longer exists;

863 (b) the petitioner has repeatedly acted in contravention of the protective order
864 provisions to intentionally or knowingly induce the respondent to violate the protective order;
865 and

866 (c) the petitioner's actions demonstrate that the petitioner no longer has a reasonable
867 fear of the respondent.

868 (2) The court shall enter sanctions against either party if the court determines that
869 either party acted:

870 (a) in bad faith; or

871 (b) with intent to harass or intimidate the other party.

872 (3) [~~Except as provided in Subsection (4), if~~] If a divorce proceeding is pending
873 between parties to a protective order action, the court shall dismiss the protective order [~~shall~~
874 ~~be dismissed~~] when the court issues a decree of divorce for the parties if:

875 (a) the respondent files a motion to dismiss a protective order in both the divorce
876 action and the protective order action and personally serves the petitioner; and

877 (b) (i) the parties stipulate in writing or on the record to dismiss the protective order; or

878 (ii) based on evidence at the divorce trial, the court determines that the petitioner no
879 longer has a reasonable fear of future harm, abuse, or domestic violence.

880 (4) When the court dismisses a protective order, the court shall immediately:

881 (a) issue an order of dismissal to be filed in the protective order action; and

882 (b) transmit a copy of the order of dismissal to the statewide domestic violence
883 network as described in Section [78B-7-113](#).

884 Section 19. Section **78B-7-606** is amended to read:

885 **78B-7-606. Expiration -- Extension.**

886 (1) (a) [~~Subject~~] Except as provided in Subsection (1)(b) and subject to the other
887 provisions of this section, a cohabitant abuse protective order automatically expires three years
888 after the day on which the cohabitant abuse protective order is entered.

889 (b) (i) The civil provisions of a cohabitant abuse protective order described in Section
890 [78B-7-603](#) expires 150 days after the day on which the cohabitant abuse protective order is
891 entered, unless the court finds good cause for extending the expiration date of the civil
892 provisions.

893 (ii) Unless a motion under this section is granted, a court may not extend the civil

894 provisions of a cohabitant abuse protective order for more than three years after the day on
895 which the cohabitant abuse protective order is entered.

896 (2) A cohabitant abuse protective order automatically expires [~~as described in~~] under
897 Subsection (1), unless the petitioner files a motion before the day on which the cohabitant
898 abuse protective order expires and demonstrates that:

899 (a) the petitioner has a current reasonable fear of future harm, abuse, or domestic
900 violence; or

901 (b) the respondent committed or was convicted of a cohabitant abuse protective order
902 violation or a qualifying domestic violence offense, as defined in Section 77-36-1.1,
903 subsequent to the issuance of the cohabitant abuse protective order.

904 (3) (a) If the court grants the motion under Subsection (2), the court shall set a new
905 date on which the cohabitant abuse protective order expires.

906 (b) The cohabitant abuse protective order will expire on the date set by the court unless
907 the petitioner files a motion described in Subsection (2) to extend the cohabitant abuse
908 protective order.

909 Section 20. Section **78B-7-801** is amended to read:

910 **78B-7-801. Definitions.**

911 As used in this part:

912 (1) (a) "Jail release agreement" means a written agreement that is entered into by an
913 [~~arrested~~] individual who is arrested or issued a citation, regardless of whether the individual is
914 booked into jail:

915 [~~(a)~~] (i) under which the arrested or cited individual agrees to not engage in any of the
916 following:

917 [~~(i) have personal contact with the alleged victim;~~]

918 [~~(ii) threaten or harass]~~

919 (A) telephoning, contacting, or otherwise communicating with the alleged victim,
920 directly or indirectly;

921 (B) threatening or harassing the alleged victim; or

922 [~~(iii)~~] (C) knowingly [~~enter on~~] entering onto the premises of the alleged victim's
923 residence or on premises temporarily occupied by the alleged victim; and

924 [~~(b)~~] (ii) that specifies other conditions of release from jail or arrest.

925 (b) "Jail release agreement" includes a written agreement that includes the conditions
 926 described in Section (1)(a) entered into by a minor who is taken into custody or placed in
 927 detention or a shelter facility under Section [78A-6-112](#).

928 (2) "Jail release court order" means a written court order that:

929 (a) orders an arrested or cited individual not to engage in any of the following:

930 [~~(i) have personal contact with the alleged victim;~~]

931 (i) telephoning, contacting, or otherwise communicating with the alleged victim,
 932 directly or indirectly;

933 (ii) [~~threaten or harass~~] threatening or harassing the alleged victim; or

934 (iii) knowingly [~~enter on~~] entering onto the premises of the alleged victim's residence
 935 or on premises temporarily occupied by the alleged victim; and

936 (b) specifies other conditions of release from jail.

937 (3) "Minor" means [~~an unemancipated individual who is younger than 18 years of age~~]
 938 the same as that term is defined in Section [78A-6-105](#).

939 (4) "Offense against a child or vulnerable adult" means the commission or attempted
 940 commission of an offense described in Section [76-5-109](#), [76-5-109.1](#), [76-5-110](#), [~~or~~] [76-5-111](#),
 941 or [76-9-702.1](#).

942 (5) "Qualifying offense" means:

943 (a) domestic violence;

944 (b) an offense against a child or vulnerable adult; or

945 (c) the commission or attempted commission of an offense described in Section
 946 [76-9-702.1](#) or Title 76, Chapter 5, Part 4, Sexual Offenses.

947 Section 21. Section **78B-7-802** is amended to read:

948 **78B-7-802. Conditions for release after arrest for domestic violence and other**
 949 **offenses -- Jail release agreements -- Jail release court orders.**

950 (1) Upon arrest or issuance of a citation for a qualifying offense and before the
 951 individual is released on bail, recognizance, or otherwise, the individual may not [~~personally~~
 952 ~~contact the alleged victim~~] telephone, contact, or otherwise communicate with the alleged
 953 victim, directly or indirectly.

954 (2) (a) After an individual is arrested or issued a citation for a qualifying offense, the
 955 individual may not be released before:

956 (i) the matter is submitted to a magistrate in accordance with Section 77-7-23; or

957 (ii) the individual signs a jail release agreement.

958 (b) ~~[The]~~ If an arrested individual is booked into jail, the arresting officer shall ensure
959 that the information presented to the magistrate includes whether the alleged victim has made a
960 waiver described in Subsection (5)(a).

961 (c) (i) If the magistrate determines there is probable cause to support the charge or
962 charges of one or more qualifying offenses, the magistrate shall determine whether the arrested
963 individual may be held without bail, in accordance with Section 77-20-1.

964 (ii) If the magistrate determines that the arrested individual has the right to be admitted
965 to bail, the magistrate shall determine:

966 (A) whether any release conditions, including electronic monitoring, are necessary to
967 protect the alleged victim; and

968 (B) any bail that is required to guarantee the arrested individual's subsequent
969 appearance in court.

970 (d) The magistrate may not release an individual arrested for a qualifying offense
971 unless the magistrate issues a jail release court order or the arrested individual signs a jail
972 release agreement.

973 (3) (a) If an individual charged with a qualifying offense fails to either schedule an
974 initial appearance or to appear at the time scheduled by the magistrate within 96 hours after the
975 time of arrest, the individual shall comply with the release conditions of a jail release
976 agreement or jail release court order until the individual makes an initial appearance.

977 (b) If the prosecutor has not filed charges against an individual who was arrested for a
978 qualifying offense and who appears in court at the time scheduled by the magistrate under
979 Subsection (2), or by the court under Subsection (3)(b)(ii), the court:

980 (i) may, upon the motion of the prosecutor and after allowing the individual an
981 opportunity to be heard on the motion, extend the release conditions described in the jail
982 release court order or the jail release agreement by no more than three court days; and

983 (ii) if the court grants the motion described in Subsection (3)(b)(i), shall order the
984 arrested individual to appear at a time scheduled before the end of the granted extension.

985 (c) (i) If the prosecutor determines that there is insufficient evidence to file charges
986 before an initial appearance scheduled under Subsection (3)(a), the prosecutor shall transmit a

987 notice of declination to either the magistrate who signed the jail release court order or, if the
988 releasing agency obtains a jail release agreement from the released arrestee, to the statewide
989 domestic violence network described in Section [78B-7-113](#).

990 (ii) A prosecutor's notice of declination transmitted under this Subsection (3)(c) is
991 considered a motion to dismiss a jail release court order and a notice of expiration of a jail
992 release agreement.

993 (4) Except as provided in [~~Subsection (3)~~] Subsections (3) and (11) or otherwise
994 ordered by a court, a jail release agreement or jail release court order expires at midnight after
995 the earlier of:

996 (a) the arrested or cited individual's initial scheduled court appearance described in
997 Subsection (3)(a);

998 (b) the day on which the prosecutor transmits the notice of the declination under
999 Subsection (3)(c); or

1000 (c) 30 days after the day on which the [~~arrested~~] individual is arrested or issued a
1001 citation.

1002 (5) (a) (i) After an individual is arrested or issued a citation for a qualifying offense, an
1003 alleged victim who is not a minor may waive in writing any condition of a jail release
1004 agreement by:

1005 (A) appearing in person to the law enforcement agency that arrested the individual or
1006 issued the citation to the individual for the qualifying offense;

1007 (B) appearing in person to the jail or correctional facility that released the arrested
1008 individual from custody; or

1009 (C) appearing in person to the clerk at the court of the jurisdiction where the charges
1010 are filed.

1011 [~~(5) (a) (i) After an arrest for a qualifying offense, an~~] (ii) An alleged victim who is not
1012 a minor may waive in writing the release conditions prohibiting:

1013 [~~(A) personal contact with the alleged victim; or~~]

1014 (A) telephoning, contacting, or otherwise communicating with the alleged victim,
1015 directly or indirectly; or

1016 (B) knowingly entering on the premises of the alleged victim's residence or on
1017 premises temporarily occupied by the alleged victim.

1018 (iii) ~~Ŝ~~ **Except as provided in Subsection (5)(a)(iv), a parent or guardian may waive**
 1018a **any condition of a jail release agreement on behalf of an alleged victim who is a minor in the**
 1018b **manner described in Subsections (5)(a)(i) and (ii).**

1018c (iv) ~~Ŝ~~ **A parent or guardian may not, without the approval of the court, waive the release**
 1019 **conditions** ~~Ŝ~~ **[of the jail release agreement] described in Subsection (5)(a)(ii)** ~~Ŝ~~ **on behalf of an**
 1019a **alleged victim who is a minor** ~~Ŝ~~ **[:] , if the alleged victim who is a minor:**

1019b **(A) allegedly suffers bodily injury as a result of the qualifying offense;**
 1019c **(B) summons or attempts to summon emergency aid for the qualifying offense; or**
 1019d **(C) after the time at which the qualifying offense is allegedly committed and before the**
 1019e **time at which the arrested or cited individual signs the jail release agreement, discloses to a law**
 1019f **enforcement officer that the arrested or cited individual threatened the alleged victim who is a**
 1019g **minor with bodily injury.** ~~Ŝ~~

1020 [(iv)] ~~Ŝ~~ [(iv)] (v) ~~Ŝ~~ Upon waiver, the release conditions described in Subsection
 1020a (5)(a)[(iv)](ii) do
 1021 not apply to the arrested or cited individual.

1022 (b) A court or magistrate may modify a jail release agreement or a jail release court
 1023 order in writing or on the record, and only for good cause shown.

1024 (6) (a) When an [~~arrested~~] individual is arrested or issued a citation and subsequently
 1025 released in accordance with Subsection (2), the releasing agency shall:

1026 (i) notify the arresting law enforcement agency of the release, conditions of release, and
 1027 any available information concerning the location of the alleged victim;
 1028 (ii) make a reasonable effort to notify the alleged victim of the release; and
 1029 (iii) before releasing the [~~arrested~~] individual who is arrested or issued a citation, give
 1030 the arrested or cited individual a copy of the jail release agreement or the jail release court
 1031 order.

1032 (b) (i) When an individual arrested or issued a citation for domestic violence is
 1033 released under this section based on a jail release agreement, the releasing agency shall transmit
 1034 that information to the statewide domestic violence network described in Section 78B-7-113.
 1035 (ii) When an individual arrested or issued a citation for domestic violence is released
 1036 under this section based upon a jail release court order or if a jail release agreement is modified
 1037 under Subsection (5)(b), the court shall transmit that order to the statewide domestic violence
 1038 network described in Section 78B-7-113.

1039 (c) This Subsection (6) does not create or increase liability of a law enforcement officer
 1040 or agency, and the good faith immunity provided by Section 77-36-8 is applicable.

1041 (7) An individual who is arrested for a qualifying offense that is a felony and released
1042 in accordance with this section may subsequently be held without bail if there is substantial
1043 evidence to support a new felony charge against the individual.

1044 (8) At the time an arrest is made or a citation is issued for a qualifying offense, the
1045 arresting officer shall provide the alleged victim with written notice containing:

1046 (a) the release conditions described in this section, and notice that the alleged
1047 perpetrator will not be released, before appearing before the court with jurisdiction over the
1048 offense for which the alleged perpetrator was arrested, unless:

1049 (i) the alleged perpetrator enters into a jail release agreement to comply with the release
1050 conditions; or

1051 (ii) the magistrate issues a jail release order that specifies the release conditions;

1052 (b) notification of the penalties for violation of any jail release agreement or jail release
1053 court order;

1054 (c) the address of the appropriate court in the district or county in which the alleged
1055 victim resides;

1056 (d) the availability and effect of any waiver of the release conditions; and

1057 (e) information regarding the availability of and procedures for obtaining civil and
1058 criminal protective orders with or without the assistance of an attorney.

1059 (9) At the time an arrest is made or a citation is issued for a qualifying offense, the
1060 arresting officer shall provide the alleged perpetrator with written notice containing:

1061 (a) notification that the alleged perpetrator may not contact the alleged victim before
1062 being released, including telephoning, contacting, or otherwise communicating with the alleged
1063 victim, directly or indirectly;

1064 (b) the release conditions described in this section and notice that the alleged
1065 perpetrator will not be released, before appearing before the court with jurisdiction over the
1066 offense for which the alleged perpetrator was arrested, unless:

1067 (i) the alleged perpetrator enters into a jail release agreement to comply with the release
1068 conditions; or

1069 (ii) the magistrate issues a jail release court order;

1070 (c) notification of the penalties for violation of any jail release agreement or jail release
1071 court order; and

1072 (d) notification that the alleged perpetrator is to personally appear in court on the next
1073 day the court is open for business after the day of the arrest.

1074 (10) (a) A pretrial or sentencing protective order issued under this part supersedes a jail
1075 release agreement or jail release court order.

1076 (b) If a court dismisses the charges for the qualifying offense that gave rise to a jail
1077 release agreement or jail release court order, the court shall dismiss the jail release agreement
1078 or jail release court order.

1079 (11) (a) This section does not apply if the individual arrested for the qualifying offense

1080 is a minor who is under 18 years old, unless the qualifying offense is domestic violence.

1081 (b) A jail release agreement signed by, or a jail release court order issued against, a
1082 minor expires on the earlier of:

1083 (i) the day of the minor's initial court appearance described in Subsection (3)(a);

1084 (ii) the day on which the prosecutor transmits the notice of declination under
1085 Subsection (3)(c);

1086 (iii) 30 days after the day on which the minor is arrested or issued a citation; or

1087 (iv) the day on which the juvenile court terminates jurisdiction.

1088 Section 22. Section **78B-7-803** is amended to read:

1089 **78B-7-803. Pretrial protective orders.**

1090 (1) (a) When [~~a defendant~~] an alleged perpetrator is charged with a crime involving a
1091 qualifying offense, the court shall, at the time of the [~~defendant's~~] alleged perpetrator's court
1092 appearance under Section 77-36-2.6:

1093 (i) determine the necessity of imposing a pretrial protective order or other condition of
1094 pretrial release; and

1095 (ii) state the court's findings and determination in writing.

1096 (b) [~~In~~] Except as provided in Subsection (4), in any criminal case, the court may,
1097 during any court hearing where the [~~defendant~~] alleged perpetrator is present, issue a pretrial
1098 protective order, pending trial.

1099 (2) A court may include any of the following provisions in a pretrial protective order:

1100 (a) an order enjoining the [~~defendant~~] alleged perpetrator from threatening to commit
1101 or committing acts of domestic violence or abuse against the victim and any designated family
1102 or household member;

1103 (b) an order prohibiting the [~~defendant~~] alleged perpetrator from harassing,
1104 telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

1105 (c) an order removing and excluding the [~~defendant~~] alleged perpetrator from the
1106 victim's residence and the premises of the residence;

1107 (d) an order requiring the [~~defendant~~] alleged perpetrator to stay away from the victim's
1108 residence, school, or place of employment, and the premises of any of these, or any specified
1109 place frequented by the victim and any designated family member;

1110 (e) an order for any other relief that the court considers necessary to protect and

1111 provide for the safety of the victim and any designated family or household member;

1112 (f) an order identifying and requiring an individual designated by the victim to
1113 communicate between the [~~defendant~~] alleged perpetrator and the victim if and to the extent
1114 necessary for family related matters;

1115 (g) an order requiring the [~~defendant~~] alleged perpetrator to participate in an electronic
1116 or other type of monitoring program; and

1117 (h) if the alleged victim and the [~~defendant~~] alleged perpetrator share custody of one or
1118 more minor children, an order for indirect or limited contact to temporarily facilitate parent
1119 visitation with a minor child.

1120 (3) [~~When issuing a~~] If the court issues a pretrial protective order, the court shall
1121 determine whether to allow provisions for transfer of personal property to decrease the need for
1122 contact between the parties.

1123 (4) A pretrial protective order issued under this section against an alleged perpetrator
1124 who is a minor expires on the earlier of:

1125 (a) the day on which the court issues an order against the alleged perpetrator under
1126 Section 78B-7-804 or 805 or otherwise makes a disposition of the alleged perpetrator's case
1127 under Section 78A-6-117; or

1128 (b) the day on which the juvenile court terminates jurisdiction.

1129 Section 23. Section **78B-7-804** is amended to read:

1130 **78B-7-804. Sentencing and continuous protective orders for a domestic violence**
1131 **offense -- Modification -- Expiration.**

1132 (1) Before a perpetrator who has been convicted of or adjudicated for a domestic
1133 violence offense may be placed on probation, the court shall consider the safety and protection
1134 of the victim and any member of the victim's family or household.

1135 (2) The court may condition probation or a plea in abeyance on the perpetrator's
1136 compliance with a sentencing protective order that includes:

1137 (a) an order enjoining the perpetrator from threatening to commit or committing acts of
1138 domestic violence against the victim or other family or household member;

1139 (b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or
1140 otherwise communicating with the victim, directly or indirectly;

1141 (c) an order requiring the perpetrator to stay away from the victim's residence, school,

1142 place of employment, and the premises of any of these, or a specified place frequented
1143 regularly by the victim or any designated family or household member;

1144 (d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm
1145 or other specified weapon;

1146 (e) an order directing the perpetrator to surrender any weapons the perpetrator owns or
1147 possesses; and

1148 (f) an order imposing any other condition necessary to protect the victim and any other
1149 designated family or household member or to rehabilitate the perpetrator.

1150 (3) (a) Because of the serious, unique, and highly traumatic nature of domestic violence
1151 crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of
1152 continued acts of violence subsequent to the release of a perpetrator who is convicted of or
1153 adjudicated for domestic violence, it is the finding of the Legislature that domestic violence
1154 crimes warrant the issuance of continuous protective orders under this Subsection (3) because
1155 of the need to provide ongoing protection for the victim and to be consistent with the purposes
1156 of protecting victims' rights under Title 77, Chapter 37, Victims' Rights, and Title 77, Chapter
1157 38, Rights of Crime Victims Act, and Article I, Section 28 of the Utah Constitution.

1158 (b) [H] Except as provided in Subsection (6), if a perpetrator is convicted of a domestic
1159 violence offense resulting in a sentence of imprisonment, including jail, that is to be served
1160 after conviction, the court shall issue a continuous protective order at the time of the conviction
1161 or sentencing limiting the contact between the perpetrator and the victim unless the court
1162 determines by clear and convincing evidence that the victim does not have a reasonable fear
1163 of future harm or abuse.

1164 (c) (i) The court shall notify the perpetrator of the right to request a hearing.

1165 (ii) If the perpetrator requests a hearing under this Subsection (3)(c), the court shall
1166 hold the hearing at the time determined by the court. The continuous protective order shall be
1167 in effect while the hearing is being scheduled and while the hearing is pending.

1168 (d) A continuous protective order is permanent in accordance with this Subsection (3)
1169 and may include:

1170 (i) an order enjoining the perpetrator from threatening to commit or committing acts of
1171 domestic violence against the victim or other family or household member;

1172 (ii) an order prohibiting the perpetrator from harassing, telephoning, contacting, or

1173 otherwise communicating with the victim, directly or indirectly;

1174 (iii) an order prohibiting the perpetrator from going to the victim's residence, school,
1175 place of employment, and the premises of any of these, or a specified place frequented
1176 regularly by the victim or any designated family or other household member;

1177 (iv) an order directing the perpetrator to pay restitution to the victim as may apply, and
1178 shall be enforced in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act; and

1179 (v) any other order the court considers necessary to fully protect the victim and
1180 members of the victim's family or other household member.

1181 (4) A continuous protective order may be modified or dismissed only if the court
1182 determines by clear and convincing evidence that all requirements of Subsection (3) have been
1183 met and the victim does not have a reasonable fear of future harm or abuse.

1184 (5) ~~[It]~~ Except as provided in Subsection (6), in addition to the process of issuing a
1185 continuous protective order described in Subsection (3), a district court may issue a continuous
1186 protective order at any time if the victim files a petition with the court, and after notice and
1187 hearing the court finds that a continuous protective order is necessary to protect the victim.

1188 (6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court
1189 under Section 78A-6-703.5, a continuous protective order may not be issued under this section
1190 against a perpetrator who is a minor.

1191 (b) Unless the court sets an earlier date for expiration, a sentencing protective order
1192 issued under this section against a perpetrator who is a minor expires on the earlier of:

1193 (i) the day on which the juvenile court terminates jurisdiction; or

1194 (ii) in accordance with Section 62A-7-506, the day on which the Division of Juvenile
1195 Justice Services discharges the perpetrator.

1196 Section 24. Section **78B-7-805** is amended to read:

1197 **78B-7-805. Sentencing protective orders and continuous protective orders for an**
1198 **offense that is not domestic violence -- Modification -- Expiration.**

1199 (1) Before a perpetrator has been convicted of or adjudicated for an offense that is not
1200 domestic violence is placed on probation, the court may consider the safety and protection of
1201 the victim and any member of the victim's family or household.

1202 (2) The court may condition probation or a plea in abeyance on the perpetrator's
1203 compliance with a sentencing protective order that includes:

1204 (a) an order enjoining the perpetrator from threatening to commit or committing acts of
1205 domestic violence against the victim or other family or household member;

1206 (b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or
1207 otherwise communicating with the victim, directly or indirectly;

1208 (c) an order requiring the perpetrator to stay away from the victim's residence, school,
1209 place of employment, and the premises of any of these, or a specified place frequented
1210 regularly by the victim or any designated family or household member;

1211 (d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm
1212 or other specified weapon;

1213 (e) an order directing the perpetrator to surrender any weapons the perpetrator owns or
1214 possesses; and

1215 (f) an order imposing any other condition necessary to protect the victim and any other
1216 designated family or household member or to rehabilitate the perpetrator.

1217 (3) (a) If a perpetrator is convicted of an offense that is not domestic violence resulting
1218 in a sentence of imprisonment that is to be served after conviction, the court may issue a
1219 continuous protective order at the time of the conviction or sentencing limiting the contact
1220 between the perpetrator and the victim if the court determines by clear and convincing evidence
1221 that the victim has a reasonable fear of future harm or abuse.

1222 (b) (i) The court shall notify the perpetrator of the right to request a hearing.

1223 (ii) If the perpetrator requests a hearing under this Subsection (3), the court shall hold
1224 the hearing at the time determined by the court and the continuous protective order shall be in
1225 effect while the hearing is being scheduled and while the hearing is pending.

1226 (c) ~~[A]~~ Except as provided in Subsection (6), a continuous protective order is
1227 permanent in accordance with this Subsection (3)(c) and may include any order described in
1228 Subsection [78B-7-804\(3\)\(c\)](#).

1229 (4) A continuous protective order issued under this section may be modified or
1230 dismissed only in accordance with Subsection [78B-7-804\(4\)](#).

1231 (5) ~~[H]~~ Except as provided in Subsection (6), in addition to the process of issuing a
1232 continuous protective order described in Subsection (3)(a), a district court may issue a
1233 continuous protective order at any time in accordance with Subsection [78B-7-804\(5\)](#).

1234 (6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court

1235 under Section 78A-6-703.5, a continuous protective order may not be issued under this section
1236 against a perpetrator who is a minor.

1237 (b) Unless the court sets an earlier date for expiration, a sentencing protective order
1238 issued under this section against a perpetrator who is a minor expires on the earlier of:

1239 (i) the day on which the juvenile court terminates jurisdiction; or

1240 (ii) in accordance with Section 62A-7-506, the day on which the Division of Juvenile
1241 Justice Services discharges the perpetrator.

1242 Section 25. **Coordinating H.B. 255 with H.B. 285 -- Technical amendment.**

1243 If this H.B. 255 and H.B. 285, Juvenile Recodification, both pass and become law, the
1244 Legislature intends that, on September 1, 2021, the Office of Legislative Research and General
1245 Counsel shall prepare the Utah Code database for publication by:

1246 (1) amending Subsection 78B-7-801(3) to read:

1247 "(3) "Minor" means [an unemancipated individual who is younger than 18 years of
1248 age] the same as that term is defined in Section 80-1-102.";

1249 (2) amending Subsection 78B-7-804(6)(a) to read:

1250 "(6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court
1251 under Section 80-6-504, a continuous protective order may not be issued under this section
1252 against a perpetrator who is a minor."; and

1253 (3) amending Subsection 78B-7-805(6)(a) to read:

1254 "(6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court
1255 under Section 80-6-504, a continuous protective order may not be issued under this section
1256 against a perpetrator who is a minor."