

Chapter 7 Protective Orders

Part 1 Cohabitant Abuse Act

78B-7-101 Title.

This part is known and may be cited as the "Cohabitant Abuse Act."

Enacted by Chapter 3, 2008 General Session

78B-7-102 Definitions.

As used in this chapter:

- (1) "Abuse" means intentionally or knowingly causing or attempting to cause a cohabitant physical harm or intentionally or knowingly placing a cohabitant in reasonable fear of imminent physical harm.
- (2) "Cohabitant" means an emancipated person pursuant to Section 15-2-1 or a person who is 16 years of age or older who:
 - (a) is or was a spouse of the other party;
 - (b) is or was living as if a spouse of the other party;
 - (c) is related by blood or marriage to the other party;
 - (d) has or had one or more children in common with the other party;
 - (e) is the biological parent of the other party's unborn child; or
 - (f) resides or has resided in the same residence as the other party.
- (3) Notwithstanding Subsection (2), "cohabitant" does not include:
 - (a) the relationship of natural parent, adoptive parent, or step-parent to a minor; or
 - (b) the relationship between natural, adoptive, step, or foster siblings who are under 18 years of age.
- (4) "Court clerk" means a district court clerk.
- (5) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- (6) "Ex parte protective order" means an order issued without notice to the defendant in accordance with this chapter.
- (7) "Foreign protection order" is as defined in Section 78B-7-302.
- (8) "Law enforcement unit" or "law enforcement agency" means any public agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision.
- (9) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace Officer Classifications.
- (10) "Protective order" means an order issued pursuant to this chapter subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice in accordance with this chapter.

Amended by Chapter 348, 2013 General Session

78B-7-103 Abuse or danger of abuse -- Protective orders.

- (1) Any cohabitant who has been subjected to abuse or domestic violence, or to whom there is a substantial likelihood of abuse or domestic violence, may seek an ex parte protective order

or a protective order in accordance with this chapter, whether or not that person has left the residence or the premises in an effort to avoid further abuse.

- (2) A petition for a protective order may be filed under this chapter regardless of whether an action for divorce between the parties is pending.
- (3) A petition seeking a protective order may not be withdrawn without approval of the court.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-104 Venue of action.

- (1) The district court has jurisdiction of any action brought under this chapter.
- (2) An action brought pursuant to this chapter shall be filed in the county where either party resides or in which the action complained of took place.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-105 Forms for petitions and protective orders -- Assistance.

- (1)
 - (a) The offices of the court clerk shall provide forms and nonlegal assistance to persons seeking to proceed under this chapter.
 - (b) The Administrative Office of the Courts shall develop and adopt uniform forms for petitions and orders for protection in accordance with the provisions of this chapter. That office shall provide the forms to the clerk of each court authorized to issue protective orders. The forms shall include:
 - (i) a statement notifying the petitioner for an ex parte protective order that knowing falsification of any statement or information provided for the purpose of obtaining a protective order may subject the petitioner to felony prosecution;
 - (ii) a separate portion of the form for those provisions, the violation of which is a criminal offense, and a separate portion for those provisions, the violation of which is a civil violation, as provided in Subsection 78B-7-106(5);
 - (iii) language in the criminal provision portion stating violation of any criminal provision is a class A misdemeanor, and language in the civil portion stating violation of or failure to comply with a civil provision is subject to contempt proceedings;
 - (iv) a space for information the petitioner is able to provide to facilitate identification of the respondent, such as social security number, driver license number, date of birth, address, telephone number, and physical description;
 - (v) a space for the petitioner to request a specific period of time for the civil provisions to be in effect, not to exceed 150 days, unless the petitioner provides in writing the reason for the requested extension of the length of time beyond 150 days;
 - (vi) a statement advising the petitioner that when a minor child is included in an ex parte protective order or a protective order, as part of either the criminal or the civil portion of the order, the petitioner may provide a copy of the order to the principal of the school where the child attends; and
 - (vii) a statement advising the petitioner that if the respondent fails to return custody of a minor child to the petitioner as ordered in a protective order, the petitioner may obtain from the court a writ of assistance.
- (2) If the person seeking to proceed under this chapter is not represented by an attorney, it is the responsibility of the court clerk's office to provide:
 - (a) the forms adopted pursuant to Subsection (1);

- (b) all other forms required to petition for an order for protection including, but not limited to, forms for service;
 - (c) clerical assistance in filling out the forms and filing the petition, in accordance with Subsection (1)(a). A court clerk's office may designate any other entity, agency, or person to provide that service, but the court clerk's office is responsible to see that the service is provided;
 - (d) information regarding the means available for the service of process;
 - (e) a list of legal service organizations that may represent the petitioner in an action brought under this chapter, together with the telephone numbers of those organizations; and
 - (f) written information regarding the procedure for transporting a jailed or imprisoned respondent to the protective order hearing, including an explanation of the use of transportation order forms when necessary.
- (3) No charges may be imposed by a court clerk, constable, or law enforcement agency for:
- (a) filing a petition under this chapter;
 - (b) obtaining an ex parte protective order;
 - (c) obtaining copies, either certified or not certified, necessary for service or delivery to law enforcement officials; or
 - (d) fees for service of a petition, ex parte protective order, or protective order.
- (4) A petition for an order of protection shall be in writing and verified.
- (5)
- (a) All orders for protection shall be issued in the form adopted by the Administrative Office of the Courts pursuant to Subsection (1).
 - (b) Each protective order issued, except orders issued ex parte, shall include the following language:

"Respondent was afforded both notice and opportunity to be heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322, 108 Stat. 1796, 18 U.S.C.A. 2265, this order is valid in all the United States, the District of Columbia, tribal lands, and United States territories. This order complies with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act."
 - (c) Each protective order issued in accordance with this part, including protective orders issued ex parte, shall include the following language:

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

Amended by Chapter 232, 2009 General Session

78B-7-106 Protective orders -- Ex parte protective orders -- Modification of orders -- Service of process -- Duties of the court.

- (1) If it appears from a petition for an order for protection or a petition to modify an order for protection that domestic violence or abuse has occurred or a modification of an order for protection is required, a court may:
- (a) without notice, immediately issue an order for protection ex parte or modify an order for protection ex parte as it considers necessary to protect the petitioner and all parties named to be protected in the petition; or
 - (b) upon notice, issue an order for protection or modify an order after a hearing, whether or not the respondent appears.

- (2) A court may grant the following relief without notice in an order for protection or a modification issued ex parte:
 - (a) enjoin the respondent from threatening to commit or committing domestic violence or abuse against the petitioner and any designated family or household member;
 - (b) prohibit the respondent from harassing, telephoning, contacting, or otherwise communicating with the petitioner, directly or indirectly;
 - (c) order that the respondent is excluded from the petitioner's residence and its premises, and order the respondent to stay away from the residence, school, or place of employment of the petitioner, and the premises of any of these, or any specified place frequented by the petitioner and any designated family or household member;
 - (d) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a firearm or other weapon specified by the court;
 - (e) order possession and use of an automobile and other essential personal effects, and direct the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to possession of the residence, automobile, and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;
 - (f) grant to the petitioner temporary custody of any minor children of the parties;
 - (g) order the appointment of an attorney guardian ad litem under Sections 78A-2-703 and 78A-6-902;
 - (h) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member; and
 - (i) if the petition requests child support or spousal support, at the hearing on the petition order both parties to provide verification of current income, including year-to-date pay stubs or employer statements of year-to-date or other period of earnings, as specified by the court, and complete copies of tax returns from at least the most recent year.
- (3) A court may grant the following relief in an order for protection or a modification of an order after notice and hearing, whether or not the respondent appears:
 - (a) grant the relief described in Subsection (2); and
 - (b) specify arrangements for parent-time of any minor child by the respondent and require supervision of that parent-time by a third party or deny parent-time if necessary to protect the safety of the petitioner or child.
- (4) Following the protective order hearing, the court shall:
 - (a) as soon as possible, deliver the order to the county sheriff for service of process;
 - (b) make reasonable efforts to ensure that the order for protection is understood by the petitioner, and the respondent, if present;
 - (c) transmit electronically, by the end of the next business day after the order is issued, a copy of the order for protection to the local law enforcement agency or agencies designated by the petitioner; and
 - (d) transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113.
- (5)
 - (a) Each protective order shall include two separate portions, one for provisions, the violation of which are criminal offenses, and one for provisions, the violation of which are civil violations, as follows:
 - (i) criminal offenses are those under Subsections (2)(a) through (e), and under Subsection (3) (a) as it refers to Subsections (2)(a) through (e); and

- (ii) civil offenses are those under Subsections (2)(f), (h), and (i), and Subsection (3)(a) as it refers to Subsections (2)(f), (h), and (i).
 - (b) The criminal provision portion shall include a statement that violation of any criminal provision is a class A misdemeanor.
 - (c) The civil provision portion shall include a notice that violation of or failure to comply with a civil provision is subject to contempt proceedings.
- (6) The protective order shall include:
- (a) a designation of a specific date, determined by the court, when the civil portion of the protective order either expires or is scheduled for review by the court, which date may not exceed 150 days after the date the order is issued, unless the court indicates on the record the reason for setting a date beyond 150 days;
 - (b) information the petitioner is able to provide to facilitate identification of the respondent, such as Social Security number, driver license number, date of birth, address, telephone number, and physical description; and
 - (c) a statement advising the petitioner that:
 - (i) after two years from the date of issuance of the protective order, a hearing may be held to dismiss the criminal portion of the protective order;
 - (ii) the petitioner should, within the 30 days prior to the end of the two-year period, advise the court of the petitioner's current address for notice of any hearing; and
 - (iii) the address provided by the petitioner will not be made available to the respondent.
- (7) Child support and spouse support orders issued as part of a protective order are subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases, except when the protective order is issued ex parte.
- (8)
- (a) The county sheriff that receives the order from the court, pursuant to Subsection (5)(a), shall provide expedited service for orders for protection issued in accordance with this chapter, and shall transmit verification of service of process, when the order has been served, to the statewide domestic violence network described in Section 78B-7-113.
 - (b) This section does not prohibit any law enforcement agency from providing service of process if that law enforcement agency:
 - (i) has contact with the respondent and service by that law enforcement agency is possible; or
 - (ii) determines that under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.
- (9)
- (a) When an order is served on a respondent in a jail or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.
 - (b) Notification of the petitioner shall consist of a good faith reasonable effort to provide notification, including mailing a copy of the notification to the last-known address of the victim.
- (10) A court may modify or vacate an order of protection or any provisions in the order after notice and hearing, except that the criminal provisions of a protective order may not be vacated within two years of issuance unless the petitioner:
- (a) is personally served with notice of the hearing as provided in Rules 4 and 5, Utah Rules of Civil Procedure, and the petitioner personally appears before the court and gives specific consent to the vacation of the criminal provisions of the protective order; or
 - (b) submits a verified affidavit, stating agreement to the vacation of the criminal provisions of the protective order.

- (11) A protective order may be modified without a showing of substantial and material change in circumstances.
- (12) Insofar as the provisions of this chapter are more specific than the Utah Rules of Civil Procedure, regarding protective orders, the provisions of this chapter govern.

Amended by Chapter 267, 2014 General Session

78B-7-107 Hearings on ex parte orders.

- (1)
 - (a) When a court issues an ex parte protective order the court shall set a date for a hearing on the petition within 20 days after the ex parte order is issued.
 - (b) If at that hearing the court does not issue a protective order, the ex parte protective order shall expire, unless it is otherwise extended by the court. Extensions beyond the 20-day period may not be granted unless:
 - (i) the petitioner is unable to be present at the hearing;
 - (ii) the respondent has not been served;
 - (iii) the respondent has had the opportunity to present a defense at the hearing;
 - (iv) the respondent requests that the ex parte order be extended; or
 - (v) exigent circumstances exist.
 - (c) Under no circumstances may an ex parte order be extended beyond 180 days from the date of initial issuance.
 - (d) If at that hearing the court issues a protective order, the ex parte protective order remains in effect until service of process of the protective order is completed.
 - (e) A protective order issued after notice and a hearing is effective until further order of the court.
 - (f) If the hearing on the petition is heard by a commissioner, either the petitioner or respondent may file an objection within 10 days of the entry of the recommended order and the assigned judge shall hold a hearing within 20 days of the filing of the objection.
- (2) Upon a hearing under this section, the court may grant any of the relief described in Section 78B-7-106.
- (3) When a court denies a petition for an ex parte protective order or a petition to modify an order for protection ex parte, upon the request of the petitioner, the court shall set the matter for hearing and notify the petitioner and serve the respondent.
- (4) A respondent who has been served with an ex parte protective order may seek to vacate the ex parte protective order prior to the hearing scheduled pursuant to Subsection (1)(a) by filing a verified motion to vacate. The respondent's verified motion to vacate and a notice of hearing on that motion shall be personally served on the petitioner at least two days prior to the hearing on the motion to vacate.

Amended by Chapter 34, 2010 General Session

78B-7-108 Mutual protective orders prohibited.

- (1) A court may not grant a mutual order or mutual orders for protection to opposing parties, unless each party:
 - (a) has filed an independent petition against the other for a protective order, and both petitions have been served;
 - (b) makes a showing at a due process protective order hearing of abuse or domestic violence committed by the other party; and
 - (c) demonstrates the abuse or domestic violence did not occur in self-defense.

- (2) If the court issues mutual protective orders, the circumstances justifying those orders shall be documented in the case file.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-109 Continuing duty to inform court of other proceedings -- Effect of other proceedings.

- (1) At any hearing in a proceeding to obtain an order for protection, each party has a continuing duty to inform the court of each proceeding for an order for protection, any civil litigation, each proceeding in juvenile court, and each criminal case involving either party, including the case name, the file number, and the county and state of the proceeding, if that information is known by the party.
- (2)
 - (a) An order for protection issued pursuant to this chapter is in addition to and not in lieu of any other available civil or criminal proceeding.
 - (b) A petitioner is not barred from seeking a protective order because of other pending proceedings.
 - (c) A court may not delay granting relief under this chapter because of the existence of a pending civil action between the parties.
- (3) A petitioner may omit his or her address from all documents filed with the court under this chapter, but shall separately provide the court with a mailing address that is not to be made part of the public record, but that may be provided to a peace officer or entity for service of process.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-110 No denial of relief solely because of lapse of time.

The court may not deny a petitioner relief requested pursuant to this chapter solely because of a lapse of time between an act of domestic violence or abuse and the filing of the petition for an order of protection.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-111 Prohibition of court-ordered or court-referred mediation.

In any case brought under the provisions of this chapter, the court may not order the parties into mediation for resolution of the issues in a petition for an order for protection.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-112 Division of Child and Family Services -- Development and assistance of volunteer network.

- (1) The Division of Child and Family Services within the Department of Human Services shall, either directly or by contract:
 - (a) develop a statewide network of volunteers and community resources to support, assist, and advocate on behalf of victims of domestic violence;
 - (b) train volunteers to provide clerical assistance to persons seeking orders for protection under this chapter;
 - (c) coordinate the provision of volunteer services with Utah Legal Services and the Legal Aid Society; and

- (d) assist local government officials in establishing community based support systems for victims of domestic violence.
- (2) Volunteers shall provide additional nonlegal assistance to victims of domestic violence, including providing information on the location and availability of shelters and other community resources.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-113 Statewide domestic violence network -- Peace officers' duties -- Prevention of abuse in absence of order -- Limitation of liability.

- (1)
 - (a) Law enforcement units, the Department of Public Safety, and the Administrative Office of the Courts shall utilize statewide procedures to ensure that peace officers at the scene of an alleged violation of a protective order or pretrial criminal no contact order have immediate access to information necessary to verify the existence and terms of that order, and other orders of the court required to be made available on the network by the provisions of this chapter, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, or Section 77-38-3. Those officers shall use every reasonable means to enforce the court's order, in accordance with the requirements and procedures of this chapter, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, and Section 77-38-3.
 - (b) The Administrative Office of the Courts, in cooperation with the Department of Public Safety and the Criminal Investigations and Technical Services Division, established in Section 53-10-103, shall provide for a single, statewide network containing:
 - (i) all orders for protection issued by a court of this state; and
 - (ii) all other court orders or reports of court action that are required to be available on the network under this chapter, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, and Section 77-38-3.
 - (c) The entities described in Subsection (1)(b) may utilize the same mechanism as the statewide warrant system, described in Section 53-10-208.
 - (d) All orders and reports required to be available on the network shall be available within 24 hours after court action. If the court that issued the order is not part of the state court computer system, the orders and reports shall be available on the network within 72 hours.
 - (e) The information contained in the network shall be available to a court, law enforcement officer, or agency upon request.
- (2) When any peace officer has reason to believe a cohabitant or child of a cohabitant is being abused, or that there is a substantial likelihood of immediate danger of abuse, although no protective order has been issued, that officer shall use all reasonable means to prevent the abuse, including:
 - (a) remaining on the scene as long as it reasonably appears there would otherwise be danger of abuse;
 - (b) making arrangements for the victim to obtain emergency medical treatment;
 - (c) making arrangements for the victim to obtain emergency housing or shelter care;
 - (d) explaining to the victim his or her rights in these matters;
 - (e) asking the victim to sign a written statement describing the incident of abuse; or
 - (f) arresting and taking into physical custody the abuser in accordance with the provisions of Title 77, Chapter 36, Cohabitant Abuse Procedures Act.

- (3) No person or institution may be held criminally or civilly liable for the performance of, or failure to perform, any duty established by this chapter, so long as that person acted in good faith and without malice.

Amended by Chapter 196, 2013 General Session

78B-7-114 Authority to prosecute class A misdemeanor violations.

Alleged class A misdemeanor violations of this chapter may be prosecuted by city attorneys.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-115 Dismissal of protective order.

- (1) Except as provided in Subsection (6), a protective order that has been in effect for at least two years may be dismissed if the court determines that the petitioner no longer has a reasonable fear of future abuse. In determining whether the petitioner no longer has a reasonable fear of future abuse, the court shall consider the following factors:
- (a) whether the respondent has complied with treatment recommendations related to domestic violence, entered at the time the protective order was entered;
 - (b) whether the protective order was violated during the time it was in force;
 - (c) claims of harassment, abuse, or violence by either party during the time the protective order was in force;
 - (d) counseling or therapy undertaken by either party;
 - (e) impact on the well-being of any minor children of the parties, if relevant; and
 - (f) any other factors the court considers relevant to the case before it.
- (2) Except as provided in Subsection (6), the court may amend or dismiss a protective order issued in accordance with this part that has been in effect for at least one year if it finds that:
- (a) the basis for the issuance of the protective order no longer exists;
 - (b) the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order;
 - (c) the petitioner's actions demonstrate that the petitioner no longer has a reasonable fear of the respondent; and
 - (d) the respondent has not been convicted of a protective order violation or any crime of violence subsequent to the issuance of the protective order, and there are no unresolved charges involving violent conduct still on file with the court.
- (3) The court shall enter sanctions against either party if the court determines that either party acted:
- (a) in bad faith; or
 - (b) with intent to harass or intimidate either party.
- (4) Notice of a motion to dismiss a protective order shall be made by personal service on the petitioner in a protective order action as provided in Rules 4 and 5, Utah Rules of Civil Procedure.
- (5) If a divorce proceeding is pending between parties to a protective order action, the protective order shall be dismissed when the court issues a decree of divorce for the parties if:
- (a) the petitioner in the protective order action is present or has been given notice in both the divorce and protective order action of the hearing; and
 - (b) the court specifically finds that the order need not continue, and as provided in Subsection (1), the petitioner no longer has a reasonable fear of future abuse.
- (6)

- (a) Notwithstanding Subsection (1) or (2), a protective order that has been entered under this chapter concerning a petitioner and a respondent who are divorced shall automatically expire, subject to Subsections (6)(b) and (c), 10 years from the day on which one of the following occurs:
 - (i) the decree of divorce between the petitioner and respondent became absolute; or
 - (ii) the protective order was entered.
 - (b) The protective order shall automatically expire, as described in Subsection (6)(a), unless:
 - (i) the petitioner demonstrates that the petitioner has a reasonable fear of future abuse, as described in Subsection (1); or
 - (ii) the respondent has been convicted of a protective order violation or any crime of violence subsequent to the issuance of the protective order.
 - (c) The 10 years described in Subsection (6)(a) is tolled for any period of time that the respondent is incarcerated.
- (7) When the court dismisses a protective order, the court shall immediately:
- (a) issue an order of dismissal to be filed in the protective order action; and
 - (b) transmit a copy of the order of dismissal to the statewide domestic violence network as described in Section 78B-7-113.

Amended by Chapter 196, 2016 General Session

78B-7-116 Full faith and credit for foreign protection orders.

- (1) A foreign protection order is enforceable in this state as provided in Title 78B, Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.
- (2)
- (a) A person entitled to protection under a foreign protection order may file the order in any district court by filing with the court a certified copy of the order. A filing fee may not be required.
 - (b) The person filing the foreign protection order shall swear under oath in an affidavit, that to the best of the person's knowledge the order is presently in effect as written and the respondent was personally served with a copy of the order.
 - (c) The affidavit described in Subsection (2)(b) shall be in the form adopted by the Administrative Office of the Courts, consistent with its responsibilities to develop and adopt forms under Section 78B-7-105.
 - (d) The court where a foreign protection order is filed shall transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113.
 - (e) Upon inquiry by a law enforcement agency, the clerk of the district court shall make a copy of the foreign protection order available.
 - (f) After a foreign protection order is filed, the district court shall furnish a certified copy of the order to the person who filed the order.
 - (g) A filed foreign protection order that is inaccurate or is not currently in effect shall be corrected or removed from the statewide domestic violence network described in Section 78B-7-113.
- (3) Law enforcement personnel may:
- (a) rely upon a certified copy of any foreign protection order which has been provided to the peace officer by any source;
 - (b) rely on the statement of the person protected by the order that the order is in effect and the respondent was personally served with a copy of the order; or
 - (c) consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists.

- (4) A violation in Utah of a foreign protection order is subject to the same penalties as the violation of a protective order issued in Utah.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 2

Child Protective Orders

78B-7-201 Definitions.

As used in this chapter:

- (1) "Abuse" means physical abuse or sexual abuse.
- (2) "Court" means the district court or juvenile court.
- (3) All other terms have the same meaning as defined in Section 78A-6-105.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-202 Petition -- Ex parte determination -- Guardian ad litem -- Referral to division.

- (1) Any interested person may file a petition for a protective order on behalf of a child who is being abused or is in imminent danger of being abused. The petitioner shall first make a referral to the division.
- (2) Upon the filing of a petition, the clerk of the court shall:
 - (a) review the records of the juvenile court, the district court, and the management information system of the division to find any petitions, orders, or investigations related to the child or the parties to the case;
 - (b) request the records of any law enforcement agency identified by the petitioner as having investigated abuse of the child; and
 - (c) identify and obtain any other background information that may be of assistance to the court.
- (3) Upon the filing of a petition, the court shall immediately determine, based on the evidence and information presented, whether the minor is being abused or is in imminent danger of being abused. If so, the court shall enter an ex parte child protective order.
- (4) The court may appoint an attorney guardian ad litem under Sections 78A-2-703 and 78A-6-902.

Amended by Chapter 267, 2014 General Session

78B-7-203 Hearing.

- (1) If an ex parte order is granted, the court shall schedule a hearing within 20 days after the ex parte determination. If an ex parte order is denied, the court, upon the request of the petitioner, shall schedule a hearing within 20 days after the ex parte determination.
- (2) The petition, ex parte child protective order, and notice of hearing shall be served on the respondent, the minor's parent or guardian, and, if appointed, the guardian ad litem. The notice shall contain:
 - (a) the name and address of the person to whom it is directed;
 - (b) the date, time, and place of the hearing;
 - (c) the name of the minor on whose behalf a petition is being brought; and
 - (d) a statement that a person is entitled to have an attorney present at the hearing.

- (3) The court shall provide an opportunity for any person having relevant knowledge to present evidence or information. The court may hear statements by counsel.
- (4) An agent of the division served with a subpoena in compliance with the Utah Rules of Civil Procedure shall testify in accordance with the Utah Rules of Evidence.
- (5) If the court determines, based on a preponderance of the evidence, that the minor is being abused or is in imminent danger of being abused, the court shall enter a child protective order. With the exception of the provisions of Section 78A-6-323, a child protective order does not constitute an adjudication of abuse, neglect, or dependency under Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

Amended by Chapter 34, 2010 General Session

78B-7-204 Content of order.

- (1) A child protective order or an ex parte child protective order may contain the following provisions the violation of which is a class A misdemeanor under Section 77-36-2.4:
 - (a) enjoin the respondent from threatening to commit or committing abuse of the minor;
 - (b) prohibit the respondent from harassing, telephoning, contacting, or otherwise communicating with the minor, directly or indirectly;
 - (c) prohibit the respondent from entering or remaining upon the residence, school, or place of employment of the minor and the premises of any of these or any specified place frequented by the minor;
 - (d) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the minor, prohibit the respondent from purchasing, using, or possessing a firearm or other specified weapon; and
 - (e) determine ownership and possession of personal property and direct the appropriate law enforcement officer to attend and supervise the petitioner's or respondent's removal of personal property.
- (2) A child protective order or an ex parte child protective order may contain the following provisions the violation of which is contempt of court:
 - (a) determine temporary custody of a minor who is the subject of the petition;
 - (b) determine parent-time with a minor who is the subject of the petition, including denial of parent-time if necessary to protect the safety of the minor, and require supervision of parent-time by a third party;
 - (c) determine support in accordance with Title 78B, Chapter 12, Utah Child Support Act; and
 - (d) order any further relief the court considers necessary to provide for the safety and welfare of the minor.
- (3) A child protective order and an ex parte child protective order shall include:
 - (a) a statement that violation of a criminal provision is a class A misdemeanor and violation of a civil provision is contempt of court; and
 - (b) information the petitioner is able to provide to facilitate identification of the respondent, such as Social Security number, driver license number, date of birth, address, telephone number, and physical description.
- (4) A child protective order shall include:
 - (a) the date the order expires;
 - (b) a statement that the address provided by the petitioner will not be made available to the respondent; and
 - (c) the following statement: "Respondent was afforded notice and opportunity to be heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994,

P.L. 103-322, 108 Stat. 1796, 18 U.S.C.A. 2265, this order is valid in all the United States, the District of Columbia, tribal lands, and United States territories. This order complies with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act."

Renumbered and Amended by Chapter 3, 2008 General Session
Amended by Chapter 115, 2008 General Session

78B-7-205 Service -- Income withholding -- Expiration.

- (1) If the court enters an ex parte child protective order or a child protective order, the court shall:
 - (a) make reasonable efforts to ensure that the order is understood by the petitioner and the respondent, if present;
 - (b) as soon as possible transmit the order to the county sheriff for service; and
 - (c) by the end of the next business day after the order is entered, transmit electronically a copy of the order to any law enforcement agency designated by the petitioner and to the statewide domestic violence network described in Section 78B-7-113.
- (2) The county sheriff shall serve the order and transmit verification of service to the statewide domestic violence network described in Section 78B-7-113 in an expeditious manner. Any law enforcement agency may serve the order and transmit verification of service to the statewide domestic violence network if the law enforcement agency has contact with the respondent or if service by that law enforcement agency is in the best interests of the child.
- (3) When an order is served on a respondent in a jail, prison, or other holding facility, the law enforcement agency managing the facility shall notify the petitioner of the respondent's release. Notice to the petitioner consists of a prompt, good faith effort to provide notice, including mailing the notice to the petitioner's last-known address.
- (4) Child support orders issued as part of a child protective order are subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases.
- (5) After notice, as provided in Rule 4 of the Utah Rules of Civil Procedure, and hearing, a court may modify or vacate a child protective order with a showing of substantial and material change in circumstances.
- (6) The child protective order expires 150 days after the date of the order unless a different date is set by the court. The court may not set a date more than 150 days after the date of the order without a finding of good cause. The court may review and extend the expiration date, but may not extend it to more than 150 days after the date of the order without a finding of good cause.
- (7) Notwithstanding Subsections (5) and (6), unless the judge orders otherwise all child protective orders expire when the subject of the order is 18 years of age, unless the judge vacates the order earlier.

Amended by Chapter 208, 2011 General Session

78B-7-206 Statewide domestic violence network.

The Administrative Office of the Courts, in cooperation with the Department of Public Safety and the Criminal Investigations and Technical Services Division, shall post ex parte child protective orders, child protective orders, and any modifications to them on the statewide network established in Section 78B-7-113.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-207 Forms and assistance -- No fees.

- (1) The Administrative Office of the Courts shall adopt and make available uniform forms for petitions and orders conforming to this part. The forms shall notify the petitioner that:
 - (a) a knowing falsehood in any statement under oath may subject the petitioner to felony prosecution;
 - (b) the petitioner may provide a copy of the order to the principal of the minor's school; and
 - (c) the petitioner may enforce a court order through the court if the respondent violates or fails to comply with a provision of the order.
- (2) If the petitioner is not represented, the clerk of the court shall provide, directly or through an agent:
 - (a) the forms adopted pursuant to Subsection (1);
 - (b) clerical assistance in completing the forms and filing the petition;
 - (c) information regarding means for service of process;
 - (d) a list of organizations with telephone numbers that may represent the petitioner; and
 - (e) information regarding the procedure for transporting a jailed or imprisoned respondent to hearings, including transportation order forms when necessary.
- (3) No fee may be imposed by a court, constable, or law enforcement agency for:
 - (a) filing a petition under this chapter;
 - (b) obtaining copies necessary for service or delivery to law enforcement officials; or
 - (c) service of a petition, ex parte child protective order, or child protective order.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 3

Uniform Interstate Enforcement of Domestic Violence Protection Orders Act

78B-7-301 Title.

This part is known as the "Uniform Interstate Enforcement of Domestic Violence Protection Orders Act."

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-302 Definitions.

As used in this part:

- (1) "Foreign protection order" means a protection order issued by a tribunal of another state.
- (2) "Issuing state" means the state whose tribunal issues a protection order.
- (3) "Mutual foreign protection order" means a foreign protection order that includes provisions in favor of both the protected individual seeking enforcement of the order and the respondent.
- (4) "Protected individual" means an individual protected by a protection order.
- (5) "Protection order" means an injunction or other order, issued by a tribunal under the domestic violence, family-violence, or anti-stalking laws of the issuing state, to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to, another individual.
- (6) "Respondent" means the individual against whom enforcement of a protection order is sought.
- (7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the

United States. The term includes an Indian tribe or band that has jurisdiction to issue protection orders.

- (8) "Tribunal" means a court, agency, or other entity authorized by law to issue or modify a protection order.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-303 Judicial enforcement of order.

- (1) A person authorized by the law of this state to seek enforcement of a protection order may seek enforcement of a valid foreign protection order in a tribunal of this state. The tribunal shall enforce the terms of the order, including terms that provide relief that a tribunal of this state would lack power to provide but for this section. The tribunal shall enforce the order, whether the order was obtained by independent action or in another proceeding, if it is an order issued in response to a complaint, petition, or motion filed by or on behalf of an individual seeking protection. In a proceeding to enforce a foreign protection order, the tribunal shall follow the procedures of this state for the enforcement of protection orders.
- (2) A tribunal of this state may not enforce a foreign protection order issued by a tribunal of a state that does not recognize the standing of a protected individual to seek enforcement of the order.
- (3) A tribunal of this state shall enforce the provisions of a valid foreign protection order which govern custody and visitation, if the order was issued in accordance with the jurisdictional requirements governing the issuance of custody and visitation orders in the issuing state.
- (4) A foreign protection order is valid if it:
- (a) identifies the protected individual and the respondent;
 - (b) is currently in effect;
 - (c) was issued by a tribunal that had jurisdiction over the parties and subject matter under the law of the issuing state; and
 - (d) was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issued the order or, in the case of an order ex parte, the respondent was given notice and has had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the rights of the respondent to due process.
- (5) A foreign protection order valid on its face is prima facie evidence of its validity.
- (6) Absence of any of the criteria for validity of a foreign protection order is an affirmative defense in an action seeking enforcement of the order.
- (7) A tribunal of this state may enforce provisions of a mutual foreign protection order which favor a respondent only if:
- (a) the respondent filed a written pleading seeking a protection order from the tribunal of the issuing state; and
 - (b) the tribunal of the issuing state made specific findings in favor of the respondent.
- (8)
- (a) The juvenile court has jurisdiction to enforce foreign protection orders under this section over which the juvenile court would have had jurisdiction if the order had been originally sought in this state.
 - (b) The district court has jurisdiction to enforce foreign protection orders under this section:
 - (i) over which the district court would have had jurisdiction if the order had been originally sought in this state; or
 - (ii) that are not under the jurisdiction of the juvenile court under Subsection (8)(a).

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-304 Nonjudicial enforcement of order.

- (1) A law enforcement officer of this state, upon determining that there is probable cause to believe that a valid foreign protection order exists and that the order has been violated, shall enforce the order as if it were the order of a tribunal of this state. Presentation of a protection order that identifies both the protected individual and the respondent and, on its face, is currently in effect constitutes probable cause to believe that a valid foreign protection order exists. For the purposes of this section, the protection order may be inscribed on a tangible medium or may have been stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of a protection order is not required for enforcement.
- (2) If a foreign protection order is not presented, a law enforcement officer of this state may consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists.
- (3) If a law enforcement officer of this state determines that an otherwise valid foreign protection order cannot be enforced because the respondent has not been notified or served with the order, the officer shall inform the respondent of the order, make a reasonable effort to serve the order upon the respondent, and allow the respondent a reasonable opportunity to comply with the order before enforcing the order.
- (4) Registration or filing of an order in this state is not required for the enforcement of a valid foreign protection order pursuant to this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-305 Registration of order.

Any individual may register a foreign protection order in this state under Section 78B-7-116.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-306 Immunity.

This state or a local governmental agency, or a law enforcement officer, prosecuting attorney, clerk of court, or any state or local governmental official acting in an official capacity, is immune from civil and criminal liability for an act or omission arising out of the registration or enforcement of a foreign protection order or the detention or arrest of an alleged violator of a foreign protection order if the act or omission was done in good faith in an effort to comply with this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-307 Other remedies.

A protected individual who pursues remedies under this part is not precluded from pursuing other legal or equitable remedies against the respondent.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-308 Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-309 Severability clause.

If any provision of this part or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this part which can be given effect without the invalid provision or application, and to this end the provisions of this part are severable.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-7-310 Transitional provision.

This part applies to protection orders issued before July 1, 2006 and to continuing actions for enforcement of foreign protection orders commenced before July 1, 2006. A request for enforcement of a foreign protection order made on or after July 1, 2006 for violations of a foreign protection order occurring before July 1, 2006 is governed by this part.

Renumbered and Amended by Chapter 3, 2008 General Session

Part 4
Dating Violence Protection Act

78B-7-401 Title.

- (1) This part is known as the "Dating Violence Protection Act."
- (2) This part is not related to marriage.

Enacted by Chapter 179, 2013 General Session

78B-7-402 Definitions.

As used in this part:

- (1) "Abuse" means intentionally or knowingly:
 - (a) causing or attempting to cause physical harm to a dating partner; or
 - (b) placing a dating partner in reasonable fear of imminent physical harm.
- (2)
 - (a) "Dating partner" means a person who:
 - (i)
 - (A) is an emancipated person under Section 15-2-1 or Title 78A, Chapter 6, Part 8, Emancipation; or
 - (B) is 18 years of age or older; and
 - (ii) is, or has been, in a dating relationship with the other party.
 - (b) "Dating partner" does not include an intimate partner, as defined in federal law in Title 18 U.S.C. Section 921.
- (3)
 - (a) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.
 - (b) "Dating relationship" does not mean casual fraternization in a business, educational, or social context.

- (c) In determining, based on a totality of the circumstances, whether a dating relationship exists:
 - (i) all relevant factors shall be considered, including:
 - (A) whether the parties developed interpersonal bonding above a mere casual fraternization;
 - (B) the length of the parties' relationship;
 - (C) the nature and the frequency of the parties' interactions, including communications indicating that the parties intended to begin a dating relationship;
 - (D) the ongoing expectations of the parties, individual or jointly, with respect to the relationship;
 - (E) whether, by statement or conduct, the parties demonstrated an affirmation of their relationship to others; and
 - (F) whether other reasons exist that support or detract from a finding that a dating relationship exists; and
 - (ii) it is not necessary that all, or a particular number, of the factors described in Subsection (3)(c)(i) are found to support the existence of a dating relationship.
- (4) "Dating violence" means:
 - (a) any criminal offense involving violence or physical harm, or threat of violence or physical harm, when committed by a person against a dating partner of the person; or
 - (b) any attempt, conspiracy, or solicitation by a person to commit a criminal offense involving violence or physical harm against a dating partner of the person.
- (5) "Dating violence protective order" means an order issued pursuant to this part subsequent to a hearing on the petition, as described in Section 78B-7-403.
- (6) "Ex parte dating violence protective order" means an order issued without notice to the respondent, in accordance with the requirements of this part.
- (7) "Protective order" means:
 - (a) a dating violence protective order; or
 - (b) an ex parte dating violence protective order.

Enacted by Chapter 179, 2013 General Session

78B-7-403 Abuse or danger of abuse -- Dating violence protective orders.

- (1) A person may seek a protective order if the person is subjected to, or there is a substantial likelihood the person will be subjected to:
 - (a) abuse by a dating partner of the person; or
 - (b) dating violence by a dating partner of the person.
- (2) A person may seek an order described in Subsection (1) whether or not the person has taken other action to end the relationship.
- (3) A person seeking a protective order may include another party in the petition for a protective order if:
 - (a) the person seeking the order meets the requirements of Subsection (1); and
 - (b) the other party:
 - (i) is a family or household member of the person seeking the protective order; and
 - (ii) there is a substantial likelihood the other party will be subjected to abuse by the dating partner of the person.
- (4) A person seeking a protective order under this part shall, to the extent possible, provide information to facilitate identification of the respondent, including a name, Social Security number, driver license number, date of birth, address, telephone number, and physical description.

- (5) A petition seeking a protective order under this part may not be withdrawn without written order of the court.
- (6)
 - (a) A person may not seek a protective order against an intimate partner, as defined by federal law in Title 18 U.S.C. Section 921, of the person under this part.
 - (b) A person may seek a protective order against a cohabitant, as defined by section 78B-7-102, or an intimate partner, as defined by federal law, of the person under Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act.

Enacted by Chapter 179, 2013 General Session

78B-7-404 Dating violence orders -- Ex parte dating violence protective orders -- Modification of orders -- Service of process -- Duties of the court.

- (1) If it appears from a petition for a protective order or a petition to modify an existing protective order that a dating partner of the petitioner has abused or committed dating violence against the petitioner, the district court may:
 - (a) without notice, immediately issue an ex parte dating violence protective order against the dating partner or modify an existing dating protective order ex parte if necessary to protect the petitioner and all parties named in the petition; or
 - (b) upon notice to the respondent, issue a dating violence protective order or modify a dating violence protective order after a hearing, regardless of whether the respondent appears.
- (2) A district court may grant the following relief without notice in a dating violence protective order or a modification issued ex parte:
 - (a) prohibit the respondent from threatening to commit or committing dating violence or abuse against the petitioner and any designated family or household member described in the protective order;
 - (b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly;
 - (c) order that the respondent:
 - (i) is excluded and shall stay away from the petitioner's residence and its premises;
 - (ii) except as provided in Subsection (4), stay away from the petitioner's:
 - (A) school and the school's premises; and
 - (B) place of employment and its premises; and
 - (iii) stay away from any specified place frequented by the petitioner or any designated family or household member;
 - (d) prohibit the respondent from being within a specified distance of the petitioner; and
 - (e) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member.
- (3) A court may grant the following relief in a dating violence protective order or a modification of a dating violence protective order, after notice and a hearing, regardless of whether the respondent appears:
 - (a) the relief described in Subsection (2); and
 - (b) except as provided in Subsection (5), upon finding that the respondent's use or possession of a weapon poses a serious threat of harm to the petitioner or any designated family or household member, prohibit the respondent from purchasing, using, or possessing a weapon specified by the court.

- (4) If the petitioner or designated family or household member attends the same school as the respondent, or is employed at the same place of employment as the respondent, the district court:
 - (a) may not enter an order under Subsection (2)(c)(ii) that excludes the respondent from the respondent's school or place of employment; and
 - (b) may enter an order governing the respondent's conduct at the respondent's school or place of employment.
- (5) The district court may not prohibit the respondent from possessing a firearm:
 - (a) if the respondent has not been given notice of the petition for a protective order and an opportunity to be heard; and
 - (b) unless the petition establishes:
 - (i) by a preponderance of the evidence that the respondent has committed abuse or dating violence against the petitioner; and
 - (ii) by clear and convincing evidence that the respondent's use or possession of a firearm poses a serious threat of harm to petitioner or the designated family or household member.
- (6) Any protective order issued under this part shall expire 180 days after the day on which the order is issued.
- (7) After the district court issues a dating violence protective order, the district court shall:
 - (a) as soon as possible, deliver the order to the county sheriff for service of process;
 - (b) make reasonable efforts at the hearing to ensure that the dating violence protective order is understood by the petitioner and the respondent, if present;
 - (c) transmit electronically, by the end of the business day after the day on which the order is issued, a copy of the dating violence protective order to the local law enforcement agency designated by the petitioner; and
 - (d) transmit a copy of the protective order issued under this part in the same manner as described in Section 78B-7-113.
- (8)
 - (a) The county sheriff that receives the order from the court, pursuant to Subsection (7)(a), shall:
 - (i) provide expedited service for protective orders issued in accordance with this part; and
 - (ii) after the order has been served, transmit verification of service of process to the statewide network described in Section 78B-7-110.
 - (b) This section does not prohibit another law enforcement agency from providing service of process if that law enforcement agency:
 - (i) has contact with the respondent and service by that law enforcement agency is possible; or
 - (ii) determines that, under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.
- (9) When a protective order is served on a respondent in jail, or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.
- (10) A district court may modify or vacate a protective order under this part after notice and hearing, if the petitioner:
 - (a) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and appears before the court to give specific consent to the modification or vacation of the provisions of the protective order; or
 - (b) submits an affidavit agreeing to the modification or vacation of the provisions of the protective order.
- (11) To the extent that the provisions of this part are more specific than the Utah Rules of Civil Procedure regarding protective orders, the provisions of this part govern.

Enacted by Chapter 179, 2013 General Session

78B-7-405 Hearings on ex parte dating violence protective orders.

- (1)
 - (a) Within 20 days after the day on which the court issues an ex parte protective order, the district court shall set a date for a hearing on the petition.
 - (b) If, at the hearing described in Subsection (1)(a), the district court does not issue a dating violence protective order, the ex parte dating protective order shall expire, unless it is extended by the district court. Extensions beyond the 20-day period may not be granted unless:
 - (i) the petitioner is unable to be present at the hearing;
 - (ii) the respondent has not been served; or
 - (iii) exigent circumstances exist.
 - (c) Under no circumstances may an ex parte order be extended beyond 180 days from the day on which the court issues the initial ex parte protective order.
 - (d) If, at the hearing described in Subsection (1)(a), the district court issues a dating violence protective order, the ex parte protective order shall remain in effect until service of process of the dating violence protective order is completed.
 - (e) A dating violence protective order issued after notice and a hearing shall remain in effect from 180 days after the day on which the order is issued.
 - (f) If the hearing on the petition is heard by a commissioner, either the petitioner or respondent may file an objection within 10 calendar days after the day on which the recommended order is entered, and the assigned judge shall hold a hearing on the objection within 20 days after the day on which the objection is filed.
- (2) Upon a hearing under this section, the district court may grant any of the relief permitted under Section 78B-7-404, except the district court shall not grant the relief described in Subsection 78B-7-404(3)(b) without providing the respondent notice and an opportunity to be heard.
- (3) If a district court denies a petition for an ex parte dating violence protective order or a petition to modify a dating violence protective order ex parte, the district court shall, upon the petitioner's request:
 - (a) set the matter for hearing; and
 - (b) notify and serve the respondent.

Amended by Chapter 263, 2014 General Session

78B-7-406 Fees -- Service of process.

- (1) Protective orders issued under this part shall be served by the sheriff's office, constable's office, or any law enforcement agency or peace officer, in accordance with Subsection 78B-7-404(8).
- (2) Fees may not be imposed by a court clerk, sheriff, constable, or law enforcement agency for:
 - (a) filing a petition under this part;
 - (b) obtaining a protective order under this part; or
 - (c) service of a protective order issued under this part.
- (3)
 - (a) The offices of the court clerk shall provide forms and nonlegal assistance to an individual seeking to proceed under this part.
 - (b) The Administrative Office of the Courts shall:

- (i) develop and adopt uniform forms for petitions and orders for protection in accordance with the provisions of this chapter; and
 - (ii) provide the forms described in Subsection (3)(b)(i) to the clerk of each court authorized to issue protective orders.
- (c) The forms described in Subsection (3)(b)(i) shall include:
- (i) a statement notifying the petitioner for an ex parte dating violence protective order that knowing falsification of any statement or information provided for the purpose of obtaining a protective order may subject the petitioner to felony prosecution;
 - (ii) language stating violating of any criminal provision is a class B misdemeanor; and
 - (iii) a space for any information the petitioner is able to provide to facilitate identification of the respondent, including Social Security number, driver license number, date of birth, address, telephone number, and physical description.
- (4) If the individual seeking to proceed under this chapter is not represented by an attorney, it is the responsibility of the court clerk's office to provide:
- (a) the forms adopted pursuant to Subsection (3);
 - (b) all other forms required to petition for an order for protection, including forms for service;
 - (c) except for as provided by Subsection (5), clerical assistance in filling out the forms and filing the petition, in accordance with Subsection (3)(a);
 - (d) information regarding the means available for the service of process;
 - (e) a list of legal service organizations that may represent the petitioner in an action brought under this part, with the phone numbers of those organizations; and
 - (f) written information regarding the procedure for transporting a jailed or imprisoned respondent to the protective order hearing, including an explanation for the use of transportation order forms when necessary.
- (5) A court clerk's office may designate any other entity, agency, or individual to provide the service described in Subsection (4)(c), but the court clerk's office is responsible to see that the service is provided.
- (6) A petition for a dating violence protective order or ex parte dating violence protective order shall be in writing and verified.
- (7)
- (a) All protective orders issued under this part shall be issued in the form adopted by the Administrative Office of the Courts under Subsection (3)(b).
 - (b) Each protective order issued under this part, except orders issued ex parte, shall include the following language:
"Respondent was afforded both notice and opportunity to be heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322, 108 Stat. 1796, 18 U.S.C.A. 2265, this order is valid in all the United States, the District of Columbia, tribal lands, and United States territories. This order complies with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act."

Enacted by Chapter 179, 2013 General Session

78B-7-407 Enforcement.

- (1) A law enforcement officer shall, without a warrant, arrest a person if the officer has probable cause to believe that the person has intentionally or knowingly violated a protective order issued under this part, regardless of whether the violation occurred in the presence of the officer.
- (2) A violation of a protective order issued under this part constitutes a class B misdemeanor.

Enacted by Chapter 179, 2013 General Session