

PROTECTIVE ORDER AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Gary F. Cox

AN ACT RELATING TO THE CRIMINAL CODE; PROVIDING THAT VIOLATION OF A
PROTECTIVE ORDER BE KNOWING OR INTENTIONAL.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

76-5-108, as last amended by Chapter 244, Laws of Utah 1996

77-36-2.4, as last amended by Chapter 10, Laws of Utah 1997

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

Section 1. Section **76-5-108** is amended to read:

76-5-108. Protective orders restraining abuse of another -- Violation.

(1) Any person who is the respondent or defendant subject to a protective order or ex parte protective order issued under Title 30, Chapter 6, Cohabitant Abuse Act, or Title 78, Chapter 3a, Juvenile [Courts] Court Act of 1996, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, or a foreign protective order as described in Section 30-6-12, who intentionally or knowingly violates that order after having been properly served, is guilty of a class A misdemeanor, except as a greater penalty may be provided in Title 77, Chapter 36, Cohabitant Abuse Procedures Act.

(2) Violation of an order as described in Subsection (1) is a domestic violence offense under Section 77-36-1 and subject to increased penalties in accordance with Section 77-36-1.1.

Section 2. Section **77-36-2.4** is amended to read:

77-36-2.4. Violation of protective orders -- Mandatory arrest.

(1) A law enforcement officer shall, without a warrant, arrest an alleged perpetrator whenever he has probable cause to believe that the alleged perpetrator has violated any of the provisions of an ex parte protective order or protective order.

(2) (a) Intentional or knowing violation of any ex parte protective order or protective order

28 is a class A misdemeanor, in accordance with Section 76-5-108, and is a domestic violence
29 offense, pursuant to Section 77-36-1.

30 (b) Second or subsequent violations of ex parte protective orders or protective orders carry
31 increased penalties, in accordance with Section 77-36-1.1.

32 (3) As used in this section, "ex parte protective order" or "protective order" includes any
33 foreign protective order enforceable under Section 30-6-12.

Legislative Review Note

as of 1-14-99 12:55 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel