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1 **DOMESTIC VIOLENCE AND DATING VIOLENCE**
2 **AMENDMENTS**
3 2012 GENERAL SESSION
4 STATE OF UTAH
5 **Chief Sponsor: Paul Ray**
6 Senate Sponsor: _____

8 **LONG TITLE**

9 **General Description:**

10 This bill provides for the issuance, modification, and enforcement of protective orders
11 between individuals who are, or have been, in a dating relationship.

12 **Highlighted Provisions:**

13 This bill:

14 ► defines terms;

15 ► provides for the issuance, modification, and enforcement of protective orders

16 between parties who are, or have been, in a dating relationship when:

17 • the parties are emancipated or 18 years of age or older;

18 • the parties are, or have been, in a dating relationship with each other; and

19 • a party commits abuse or dating violence against the other party;

20 ► requires the Administrative Office of the Courts to develop and adopt uniform

21 forms for petitions and orders for protection relating to dating violence;

22 ► describes the restrictions that a court may include in a protective order;

23 ► describes the conditions that may be placed on an alleged perpetrator of dating

24 violence:

25 • in a protective order;

26 • in an order for probation for violation of a protective order relating to dating

27 violence; or



- 28 • as a condition of release prior to trial for violation of a protective order relating
29 to dating violence; and
30 ▸ makes technical changes.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 This bill takes effect on September 1, 2012.

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **30-3-3**, as last amended by Laws of Utah 2008, Chapter 3

38 **30-3-32**, as last amended by Laws of Utah 2008, Chapters 3 and 146

39 **53-10-208**, as last amended by Laws of Utah 2009, Chapters 292 and 356

40 **53-10-208.1**, as last amended by Laws of Utah 2011, Chapter 366

41 **57-22-5.1**, as last amended by Laws of Utah 2011, Chapter 279

42 **62A-4a-101**, as last amended by Laws of Utah 2009, Chapter 75

43 **76-5-108**, as last amended by Laws of Utah 2008, Chapter 3

44 **77-3a-101**, as last amended by Laws of Utah 2008, Chapter 3

45 **77-36-1**, as last amended by Laws of Utah 2011, Chapters 113 and 320

46 **77-36-2.1**, as last amended by Laws of Utah 2011, Chapter 113

47 **77-36-2.4**, as last amended by Laws of Utah 2010, Chapter 384

48 **77-36-2.7**, as last amended by Laws of Utah 2010, Chapter 384

49 **77-36-5.1**, as last amended by Laws of Utah 2010, Chapter 384

50 **77-36-6**, as last amended by Laws of Utah 2010, Chapter 384

51 **78A-6-103**, as last amended by Laws of Utah 2011, Chapter 366

52 **78B-7-101**, as enacted by Laws of Utah 2008, Chapter 3

53 **78B-7-102**, as renumbered and amended by Laws of Utah 2008, Chapter 3

54 **78B-7-103**, as renumbered and amended by Laws of Utah 2008, Chapter 3

55 **78B-7-105**, as last amended by Laws of Utah 2009, Chapter 232

56 **78B-7-106**, as last amended by Laws of Utah 2009, Chapter 146

57 **78B-7-107**, as last amended by Laws of Utah 2010, Chapter 34

58 **78B-7-108**, as renumbered and amended by Laws of Utah 2008, Chapter 3

59 **78B-7-110**, as renumbered and amended by Laws of Utah 2008, Chapter 3

60 **78B-19-107**, as enacted by Laws of Utah 2010, Chapter 382

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

63 Section 1. Section **30-3-3** is amended to read:

64 **30-3-3. Award of costs, attorney and witness fees -- Temporary alimony.**

65 (1) In any action filed under Title 30, Chapter 3, Divorce, Chapter 4, Separate
66 Maintenance, or Title 78B, Chapter 7, Part 1, Cohabitant and Dating Partner Abuse Act, and in
67 any action to establish an order of custody, parent-time, child support, alimony, or division of
68 property in a domestic case, the court may order a party to pay the costs, attorney fees, and
69 witness fees, including expert witness fees, of the other party to enable the other party to
70 prosecute or defend the action. The order may include provision for costs of the action.

71 (2) In any action to enforce an order of custody, parent-time, child support, alimony, or
72 division of property in a domestic case, the court may award costs and attorney fees upon
73 determining that the party substantially prevailed upon the claim or defense. The court, in its
74 discretion, may award no fees or limited fees against a party if the court finds the party is
75 impecunious or enters in the record the reason for not awarding fees.

76 (3) In any action listed in Subsection (1), the court may order a party to provide money,
77 during the pendency of the action, for the separate support and maintenance of the other party
78 and of any children in the custody of the other party.

79 (4) Orders entered under this section prior to entry of the final order or judgment may
80 be amended during the course of the action or in the final order or judgment.

81 Section 2. Section **30-3-32** is amended to read:

82 **30-3-32. Parent-time -- Intent -- Policy -- Definitions.**

83 (1) It is the intent of the Legislature to promote parent-time at a level consistent with
84 all parties' interests.

85 (2) (a) A court shall consider as primary the safety and well-being of the child and the
86 parent who is the victim of domestic or family violence.

87 (b) Absent a showing by a preponderance of evidence of real harm or substantiated
88 potential harm to the child:

89 (i) it is in the best interests of the child of divorcing, divorced, or adjudicated parents to

90 have frequent, meaningful, and continuing access to each parent following separation or
91 divorce;

92 (ii) each divorcing, separating, or adjudicated parent is entitled to and responsible for
93 frequent, meaningful, and continuing access with his child consistent with the child's best
94 interests; and

95 (iii) it is in the best interests of the child to have both parents actively involved in
96 parenting the child.

97 (c) An order issued against a cohabitant by a court pursuant to Title 78B, Chapter 7,
98 Part 1, Cohabitant and Dating Partner Abuse Act shall be considered evidence of real harm or
99 substantiated potential harm to the child.

100 (3) For purposes of Sections 30-3-32 through 30-3-37:

101 (a) "Child" means the child or children of divorcing, separating, or adjudicated parents.

102 (b) "Christmas school vacation" means the time period beginning on the evening the
103 child gets out of school for the Christmas or winter school break until the evening before the
104 child returns to school.

105 (c) "Extended parent-time" means a period of parent-time other than a weekend,
106 holiday as provided in Subsections 30-3-35(2)(f) and (2)(g), religious holidays as provided in
107 Subsections 30-3-33(3) and (17), and "Christmas school vacation."

108 (d) "Surrogate care" means care by any individual other than the parent of the child.

109 (e) "Uninterrupted time" means parent-time exercised by one parent without
110 interruption at any time by the presence of the other parent.

111 (f) "Virtual parent-time" means parent-time facilitated by tools such as telephone,
112 email, instant messaging, video conferencing, and other wired or wireless technologies over the
113 Internet or other communication media to supplement in-person visits between a noncustodial
114 parent and a child or between a child and the custodial parent when the child is staying with the
115 noncustodial parent. Virtual parent-time is designed to supplement, not replace, in-person
116 parent-time.

117 (4) If a parent relocates because of an act of domestic violence or family violence by
118 the other parent, the court shall make specific findings and orders with regards to the
119 application of Section 30-3-37.

120 Section 3. Section **53-10-208** is amended to read:

121 **53-10-208. Definition -- Offenses included on statewide warrant system --**
122 **Transportation fee to be included -- Statewide warrant system responsibility -- Quality**
123 **control -- Training -- Technical support -- Transaction costs.**

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

- 126 (a) records of criminal warrant information; and
- 127 (b) after notice and hearing, records of protective orders issued pursuant to:
 - 128 (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or
 - 129 (ii) Title 78B, Chapter 7, Part 1, Cohabitant and Dating Partner Abuse Act.

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

132 (b) The division shall include on the statewide warrant system all warrants issued for
133 failure to appear on a traffic citation as ordered by a magistrate under Subsection 77-7-19(3).

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

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

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

140 (b) upon the expiration of the protective orders and in the manner prescribed by the
141 division, purge information regarding protective orders described in Subsection 53-10-208.1(4)
142 within 30 days of the time after expiration;

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

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

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

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

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

153 Section 4. Section **53-10-208.1** is amended to read:

154 **53-10-208.1. Magistrates and court clerks to supply information.**

155 Every magistrate or clerk of a court responsible for court records in this state shall,
156 within 30 days of the disposition and on forms and in the manner provided by the division,
157 furnish the division with information pertaining to:

158 (1) all dispositions of criminal matters, including:

159 (a) guilty pleas;

160 (b) convictions;

161 (c) dismissals;

162 (d) acquittals;

163 (e) pleas held in abeyance;

164 (f) judgments of not guilty by reason of insanity for a violation of:

165 (i) a felony offense;

166 (ii) Title 76, Chapter 5, Offenses Against the Person; or

167 (iii) Title 76, Chapter 10, Part 5, Weapons;

168 (g) judgments of guilty with a mental illness;

169 (h) finding of mental incompetence to stand trial for a violation of:

170 (i) a felony offense;

171 (ii) Title 76, Chapter 5, Offenses Against the Person; or

172 (iii) Title 76, Chapter 10, Part 5, Weapons; or

173 (i) probations granted; and

174 (2) orders of civil commitment under the terms of Section 62A-15-631;

175 (3) the issuance, recall, cancellation, or modification of all warrants of arrest or

176 commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303,

177 within one day of the action and in a manner provided by the division; and

178 (4) protective orders issued after notice and hearing, pursuant to:

179 (a) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or

180 (b) Title 78B, Chapter 7, Part 1, Cohabitant and Dating Partner Abuse Act.

181 Section 5. Section **57-22-5.1** is amended to read:

182 **57-22-5.1. Crime victim's right to new locks -- Domestic violence victim's right to**

183 **terminate rental agreement -- Limits an owner relating to assistance from public safety
184 agency.**

185 (1) As used in this section:
186 (a) "Crime victim" means a victim of:
187 (i) domestic violence, as defined in Section 77-36-1;
188 (ii) stalking as defined in Section 76-5-106.5;
189 (iii) a crime under Title 76, Chapter 5, Part 4, Sexual Offenses;
190 (iv) burglary or aggravated burglary under Section 76-6-202 or 76-6-203; or
191 (v) dating violence, consisting of verbal, emotional, psychological, physical, or sexual
192 abuse of one person by another in a dating relationship.

193 (b) "Public safety agency" means a governmental entity that provides fire protection,
194 law enforcement, ambulance, medical, or similar service.

195 (2) An acceptable form of documentation of an act listed in Subsection (1) is:
196 (a) a protective order protecting the renter issued pursuant to Title 78B, Chapter 7, Part
197 1, Cohabitant and Dating Partner Abuse Act, subsequent to a hearing of which the petitioner
198 and respondent have been given notice under Title 78B, Chapter 7, Part 1, Cohabitant and
199 Dating Partner Abuse Act; or
200 (b) a copy of a police report documenting an act listed in Subsection (1).

201 (3) (a) A renter who is a crime victim may require the renter's owner to install a new
202 lock to the renter's residential rental unit if the renter:

203 (i) provides the owner with an acceptable form of documentation of an act listed in
204 Subsection (1); and
205 (ii) pays for the cost of installing the new lock.

206 (b) An owner may comply with Subsection (3)(a) by:
207 (i) rekeying the lock if the lock is in good working condition; or
208 (ii) changing the entire locking mechanism with a locking mechanism of equal or
209 greater quality than the lock being replaced.

210 (c) An owner who installs a new lock under Subsection (3)(a) may retain a copy of the
211 key that opens the new lock.

212 (d) Notwithstanding any rental agreement, an owner who installs a new lock under
213 Subsection (3)(a) shall refuse to provide a copy of the key that opens the new lock to the

214 perpetrator of the act listed in Subsection (1).

215 (e) Notwithstanding Section 78B-6-814, if an owner refuses to provide a copy of the
216 key under Subsection (3)(d) to a perpetrator who is not barred from the residential rental unit
217 by a protective order but is a renter on the rental agreement, the perpetrator may file a petition
218 with a court of competent jurisdiction within 30 days to:

219 (i) establish whether the perpetrator should be given a key and allowed access to the
220 residential rental unit; or

221 (ii) whether the perpetrator should be relieved of further liability under the rental
222 agreement because of the owner's exclusion of the perpetrator from the residential rental unit.

223 (f) Notwithstanding Subsection (3)(e)(ii), a perpetrator may not be relieved of further
224 liability under the rental agreement if the perpetrator is found by the court to have committed
225 the act upon which the landlord's exclusion of the perpetrator is based.

226 (4) A renter who is a victim of domestic violence, as defined in Section 77-36-1, may
227 terminate a rental agreement if the renter:

228 (a) is in compliance with:

229 (i) all provisions of Section 57-22-5; and

230 (ii) all obligations under the rental agreement;

231 (b) provides the owner:

232 (i) written notice of termination; and

233 (ii) a protective order protecting the renter from a domestic violence perpetrator or a
234 copy of a police report documenting that the renter is a victim of domestic violence and did not
235 participate in the violence; and

236 (c) no later than the date that the renter provides a notice of termination under
237 Subsection (4)(b)(i), pays the owner the equivalent of 45 days' rent for the period beginning on
238 the date that the renter provides the notice of termination.

239 (5) An owner may not:

240 (a) impose a restriction on a renter's ability to request assistance from a public safety
241 agency; or

242 (b) penalize or evict a renter because the renter makes reasonable requests for
243 assistance from a public safety agency.

244 Section 6. Section **62A-4a-101** is amended to read:

245 **62A-4a-101. Definitions.**

246 As used in this chapter:

247 (1) "Abuse" is as defined in Section 78A-6-105.

248 (2) "Adoption services" means:

249 (a) placing children for adoption;

250 (b) subsidizing adoptions under Section 62A-4a-105;

251 (c) supervising adoption placements until the adoption is finalized by the court;

252 (d) conducting adoption studies;

253 (e) preparing adoption reports upon request of the court; and

254 (f) providing postadoptive placement services, upon request of a family, for the

255 purpose of stabilizing a possible disruptive placement.

256 (3) "Child" means, except as provided in Part 7, Interstate Compact on Placement of

257 Children, a person under 18 years of age.

258 (4) "Consumer" means a person who receives services offered by the division in

259 accordance with this chapter.

260 (5) "Chronic abuse" means repeated or patterned abuse.

261 (6) "Chronic neglect" means repeated or patterned neglect.

262 (7) "Custody," with regard to the division, means the custody of a minor in the division

263 as of the date of disposition.

264 (8) "Day-care services" means care of a child for a portion of the day which is less than

265 24 hours:

266 (a) in the child's own home by a responsible person; or

267 (b) outside of the child's home in a:

268 (i) day-care center;

269 (ii) family group home; or

270 (iii) family child care home.

271 (9) "Dependent child" or "dependency" means a child, or the condition of a child, who

272 is homeless or without proper care through no fault of the child's parent, guardian, or custodian.

273 (10) "Director" means the director of the Division of Child and Family Services.

274 (11) "Division" means the Division of Child and Family Services.

275 (12) "Domestic violence services" means:

- 276 (a) temporary shelter, treatment, and related services to:
- 277 (i) a person who is a victim of abuse, as defined in Section 78B-7-102, by a cohabitant,
278 as defined in Section 78B-7-102; and
- 279 (ii) the dependent children of a person described in Subsection (12)(a)(i); and
- 280 (b) treatment services for a person who is alleged to have committed, has been
281 convicted of, or has pled guilty to, an act of domestic violence as defined in Section 77-36-1.
- 282 (13) "Harm" is as defined in Section 78A-6-105.
- 283 (14) "Homemaking service" means the care of individuals in their domiciles, and help
284 given to individual caretaker relatives to achieve improved household and family management
285 through the services of a trained homemaker.
- 286 (15) "Incest" is as defined in Section 78A-6-105.
- 287 (16) "Minor" means, except as provided in Part 7, Interstate Compact on Placement of
288 Children:
289 (a) a child; or
290 (b) a person:
291 (i) who is at least 18 years of age and younger than 21 years of age; and
292 (ii) for whom the division has been specifically ordered by the juvenile court to provide
293 services.
- 294 (17) "Molestation" is as defined in Section 78A-6-105.
- 295 (18) "Natural parent" means a minor's biological or adoptive parent, and includes a
296 minor's noncustodial parent.
- 297 (19) "Neglect" is as defined in Section 78A-6-105.
- 298 (20) "Protective custody," with regard to the division, means the shelter of a child by
299 the division from the time the child is removed from the child's home until the earlier of:
300 (a) the shelter hearing; or
301 (b) the child's return home.
- 302 (21) "Protective services" means expedited services that are provided:
303 (a) in response to evidence of neglect, abuse, or dependency of a child;
304 (b) to a cohabitant who is neglecting or abusing a child, in order to:
305 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the
306 causes of neglect or abuse; and

- 307 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
308 (c) in cases where the child's welfare is endangered:
309 (i) to bring the situation to the attention of the appropriate juvenile court and law
310 enforcement agency;
311 (ii) to cause a protective order to be issued for the protection of the child, when
312 appropriate; and
313 (iii) to protect the child from the circumstances that endanger the child's welfare
314 including, when appropriate:
315 (A) removal from the child's home;
316 (B) placement in substitute care; and
317 (C) petitioning the court for termination of parental rights.
318 (22) "Severe abuse" is as defined in Section 78A-6-105.
319 (23) "Severe neglect" is as defined in Section 78A-6-105.
320 (24) "Sexual abuse" is as defined in Section 78A-6-105.
321 (25) "Sexual exploitation" is as defined in Section 78A-6-105.
322 (26) "Shelter care" means the temporary care of a minor in a nonsecure facility.
323 (27) "State" means:
324 (a) a state of the United States;
325 (b) the District of Columbia;
326 (c) the Commonwealth of Puerto Rico;
327 (d) the Virgin Islands;
328 (e) Guam;
329 (f) the Commonwealth of the Northern Mariana Islands; or
330 (g) a territory or possession administered by the United States.
331 (28) "State plan" means the written description of the programs for children, youth, and
332 family services administered by the division in accordance with federal law.
333 (29) "Status offense" means a violation of the law that would not be a violation but for
334 the age of the offender.
335 (30) "Substance abuse" is as defined in Section 78A-6-105.
336 (31) "Substantiated" or "substantiation" means a judicial finding based on a
337 preponderance of the evidence that abuse or neglect occurred. Each allegation made or

338 identified in a given case shall be considered separately in determining whether there should be
339 a finding of substantiated.

340 (32) "Substitute care" means:

341 (a) the placement of a minor in a family home, group care facility, or other placement
342 outside the minor's own home, either at the request of a parent or other responsible relative, or
343 upon court order, when it is determined that continuation of care in the minor's own home
344 would be contrary to the minor's welfare;

345 (b) services provided for a minor awaiting placement; and

346 (c) the licensing and supervision of a substitute care facility.

347 (33) "Supported" means a finding by the division based on the evidence available at the
348 completion of an investigation that there is a reasonable basis to conclude that abuse, neglect,
349 or dependency occurred. Each allegation made or identified during the course of the
350 investigation shall be considered separately in determining whether there should be a finding of
351 supported.

352 (34) "Temporary custody," with regard to the division, means the custody of a child in
353 the division from the date of the shelter hearing until disposition.

354 (35) "Transportation services" means travel assistance given to an individual with
355 escort service, if necessary, to and from community facilities and resources as part of a service
356 plan.

357 (36) "Unsubstantiated" means a judicial finding that there is insufficient evidence to
358 conclude that abuse or neglect occurred.

359 (37) "Unsupported" means a finding at the completion of an investigation that there is
360 insufficient evidence to conclude that abuse, neglect, or dependency occurred. However, a
361 finding of unsupported means also that the division worker did not conclude that the allegation
362 was without merit.

363 (38) "Without merit" means a finding at the completion of an investigation by the
364 division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or
365 that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

366 Section 7. Section **76-5-108** is amended to read:

367 **76-5-108. Protective orders restraining abuse of another -- Violation.**

368 (1) Any person who is the respondent or defendant subject to a protective order, child

369 protective order, ex parte protective order, or ex parte child protective order issued under Title
370 78B, Chapter 7, Part 1, Cohabitant and Dating Partner Abuse Act, or Title 78A, Chapter 6,
371 Juvenile Court Act of 1996, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, or a
372 foreign protection order enforceable under Title 78B, Chapter 7, Part 3, Uniform Interstate
373 Enforcement of Domestic Violence Protection Orders Act, who intentionally or knowingly
374 violates that order after having been properly served, is guilty of a class A misdemeanor, except
375 as a greater penalty may be provided in Title 77, Chapter 36, Cohabitant Abuse Procedures
376 Act.

377 (2) Violation of an order as described in Subsection (1),except for an order relating to
378 parties who are dating partners, as defined in Section 78B-7-102, is a domestic violence
379 offense under Section 77-36-1 and subject to increased penalties in accordance with Section
380 77-36-1.1.

381 Section 8. Section **77-3a-101** is amended to read:

382 **77-3a-101. Civil stalking injunction -- Petition -- Ex parte injunction.**

383 (1) As used in this chapter, "stalking" means the crime of stalking as defined in Section
384 76-5-106.5. Stalking injunctions may not be obtained against law enforcement officers,
385 governmental investigators, or licensed private investigators, acting in their official capacity.

386 (2) Any person who believes that he or she is the victim of stalking may file a verified
387 written petition for a civil stalking injunction against the alleged stalker with the district court
388 in the district in which the petitioner or respondent resides or in which any of the events
389 occurred. A minor with his or her parent or guardian may file a petition on his or her own
390 behalf, or a parent, guardian, or custodian may file a petition on the minor's behalf.

391 (3) The Administrative Office of the Courts shall develop and adopt uniform forms for
392 petitions, ex parte civil stalking injunctions, civil stalking injunctions, service and any other
393 necessary forms in accordance with the provisions of this chapter on or before July 1, 2001.
394 The office shall provide the forms to the clerk of each district court.

395 (a) All petitions, injunctions, ex parte injunctions, and any other necessary forms shall
396 be issued in the form adopted by the Administrative Office of the Courts.

397 (b) The offices of the court clerk shall provide the forms to persons seeking to proceed
398 under this chapter.

399 (4) The petition for a civil stalking injunction shall include:

400 (a) the name of the petitioner; however, the petitioner's address shall be disclosed to the
401 court for purposes of service, but, on request of the petitioner, the address may not be listed on
402 the petition, and shall be protected and maintained in a separate document or automated
403 database, not subject to release, disclosure, or any form of public access except as ordered by
404 the court for good cause shown;

405 (b) the name and address, if known, of the respondent;

406 (c) specific events and dates of the actions constituting the alleged stalking;

407 (d) if there is a prior court order concerning the same conduct, the name of the court in
408 which the order was rendered; and

409 (e) corroborating evidence of stalking, which may be in the form of a police report,
410 affidavit, record, statement, item, letter, or any other evidence which tends to prove the
411 allegation of stalking.

412 (5) If the court determines that there is reason to believe that an offense of stalking has
413 occurred, an ex parte civil stalking injunction may be issued by the court that includes any of
414 the following:

415 (a) respondent may be enjoined from committing stalking;

416 (b) respondent may be restrained from coming near the residence, place of
417 employment, or school of the other party or specifically designated locations or persons;

418 (c) respondent may be restrained from contacting, directly or indirectly, the other party,
419 including personal, written or telephone contact with the other party, the other party's
420 employers, employees, fellow workers or others with whom communication would be likely to
421 cause annoyance or alarm to the other party; or

422 (d) any other relief necessary or convenient for the protection of the petitioner and
423 other specifically designated persons under the circumstances.

424 (6) Within 10 days of service of the ex parte civil stalking injunction, the respondent is
425 entitled to request, in writing, an evidentiary hearing on the civil stalking injunction.

426 (a) A hearing requested by the respondent shall be held within 10 days from the date
427 the request is filed with the court unless the court finds compelling reasons to continue the
428 hearing. The hearing shall then be held at the earliest possible time. The burden is on the
429 petitioner to show by a preponderance of the evidence that stalking of the petitioner by the
430 respondent has occurred.

431 (b) An ex parte civil stalking injunction issued under this section shall state on its face:
432 (i) that the respondent is entitled to a hearing, upon written request within 10 days of
433 the service of the order;
434 (ii) the name and address of the district court where the request may be filed;
435 (iii) that if the respondent fails to request a hearing within 10 days of service, the ex
436 parte civil stalking injunction is automatically modified to a civil stalking injunction without
437 further notice to the respondent and that the civil stalking injunction expires three years after
438 service of the ex parte civil stalking injunction; and
439 (iv) that if the respondent requests, in writing, a hearing after the ten-day period after
440 service, the court shall set a hearing within a reasonable time from the date requested.

441 (7) At the hearing, the court may modify, revoke, or continue the injunction. The
442 burden is on the petitioner to show by a preponderance of the evidence that stalking of the
443 petitioner by the respondent has occurred.

444 (8) The ex parte civil stalking injunction and civil stalking injunction shall include the
445 following statement: "Attention. This is an official court order. If you disobey this order, the
446 court may find you in contempt. You may also be arrested and prosecuted for the crime of
447 stalking and any other crime you may have committed in disobeying this order."

448 (9) The ex parte civil stalking injunction shall be served on the respondent within 90
449 days from the date it is signed. An ex parte civil stalking injunction is effective upon service.
450 If no hearing is requested in writing by the respondent within 10 days of service of the ex parte
451 civil stalking injunction, the ex parte civil stalking injunction automatically becomes a civil
452 stalking injunction without further notice to the respondent and expires three years from the
453 date of service of the ex parte civil stalking injunction.

454 (10) If the respondent requests a hearing after the ten-day period after service, the court
455 shall set a hearing within a reasonable time from the date requested. At the hearing, the burden
456 is on the respondent to show good cause why the civil stalking injunction should be dissolved
457 or modified.

458 (11) Within 24 hours after the affidavit or acceptance of service has been returned,
459 excluding weekends and holidays, the clerk of the court from which the ex parte civil stalking
460 injunction was issued shall enter a copy of the ex parte civil stalking injunction and proof of
461 service or acceptance of service in the statewide network for warrants or a similar system.

462 (a) The effectiveness of an ex parte civil stalking injunction or civil stalking injunction
463 shall not depend upon its entry in the statewide system and, for enforcement purposes, a
464 certified copy of an ex parte civil stalking injunction or civil stalking injunction is presumed to
465 be a valid existing order of the court for a period of three years from the date of service of the
466 ex parte civil stalking injunction on the respondent.

467 (b) Any changes or modifications of the ex parte civil stalking injunction are effective
468 upon service on the respondent. The original ex parte civil stalking injunction continues in
469 effect until service of the changed or modified civil stalking injunction on the respondent.

470 (12) Within 24 hours after the affidavit or acceptance of service has been returned,
471 excluding weekends and holidays, the clerk of the court shall enter a copy of the changed or
472 modified civil stalking injunction and proof of service or acceptance of service in the statewide
473 network for warrants or a similar system.

474 (13) The ex parte civil stalking injunction or civil stalking injunction may be dissolved
475 at any time upon application of the petitioner to the court which granted it.

476 (14) The court clerk shall provide, without charge, to the petitioner one certified copy
477 of the injunction issued by the court and one certified copy of the proof of service of the
478 injunction on the respondent. Charges may be imposed by the clerk's office for any additional
479 copies, certified or not certified in accordance with Rule 4-202.08 of the Code of Judicial
480 Administration.

481 (15) The remedies provided in this chapter for enforcement of the orders of the court
482 are in addition to any other civil and criminal remedies available. The district court shall hear
483 and decide all matters arising pursuant to this section.

484 (16) After a hearing with notice to the affected party, the court may enter an order
485 requiring any party to pay the costs of the action, including reasonable attorney fees.

486 (17) This chapter does not apply to protective orders or ex parte protective orders
487 issued pursuant to Title 78B, Chapter 7, Part 1, Cohabitant and Dating Partner Abuse Act, or to
488 preliminary injunctions issued pursuant to an action for dissolution of marriage or legal
489 separation.

490 Section 9. Section **77-36-1** is amended to read:

491 **77-36-1. Definitions.**

492 As used in this chapter:

- 493 (1) "Cohabitant" [has the same meaning as] is as defined in Section 78B-7-102.
- 494 (2) "Dating violence" is as defined in Section 78B-7-102.
- 495 [(2)] (3) "Department" means the Department of Public Safety.
- 496 [(3)] (4) "Divorced" means an individual who has obtained a divorce under Title 30,
- 497 Chapter 3, Divorce.
- 498 [(4)] (5) "Domestic violence" means:
- 499 (a) any criminal offense involving violence or physical harm or threat of violence or
- 500 physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense
- 501 involving violence or physical harm, when committed by one cohabitant against another[.-
- 502 "Domestic violence" also means]; or
- 503 (b) commission or attempt to commit, any of the following offenses by one cohabitant
- 504 against another:
- 505 [(a)] (i) aggravated assault, as described in Section 76-5-103;
- 506 [(b)] (ii) assault, as described in Section 76-5-102;
- 507 [(c)] (iii) criminal homicide, as described in Section 76-5-201;
- 508 [(d)] (iv) harassment, as described in Section 76-5-106;
- 509 [(e)] (v) electronic communication harassment, as described in Section 76-9-201;
- 510 [(f)] (vi) kidnapping, child kidnapping, or aggravated kidnapping, as described in
- 511 Sections 76-5-301, 76-5-301.1, and 76-5-302;
- 512 [(g)] (vii) mayhem, as described in Section 76-5-105;
- 513 [(h)] (viii) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses,
- 514 and Section 76-5b-201, Sexual Exploitation of a Minor;
- 515 [(i)] (ix) stalking, as described in Section 76-5-106.5;
- 516 [(j)] (x) unlawful detention, as described in Section 76-5-304;
- 517 [(k)] (xi) violation of a protective order or ex parte protective order, as described in
- 518 Section 76-5-108;
- 519 [(l)] (xii) any offense against property described in Title 76, Chapter 6, Part 1, Property
- 520 Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6,
- 521 Part 3, Robbery;
- 522 [(m)] (xiii) possession of a deadly weapon with intent to assault, as described in
- 523 Section 76-10-507;

524 [en] (xiv) discharge of a firearm from a vehicle, near a highway, or in the direction of
525 any person, building, or vehicle, as described in Section 76-10-508;

526 (xv) commission of domestic violence in the presence of a child, as described in
527 Section 76-5-109.1; or

528 [en] (xvi) disorderly conduct, as defined in Section 76-9-102, if a conviction of
529 disorderly conduct is the result of a plea agreement in which the defendant was originally
530 charged with any of the domestic violence offenses otherwise described in this Subsection [(4)]
531 (5). Conviction of disorderly conduct as a domestic violence offense, in the manner described
532 in [this] Subsection [(4)(e)] (5)(b)(xvi), does not constitute a misdemeanor crime of domestic
533 violence under 18 U.S.C. Section 921, and is exempt from the provisions of the federal
534 Firearms Act, 18 U.S.C. Section 921 et seq.[-or]

535 [(p) child abuse as described in Section 76-5-109.1.]

536 [(5)] (6) "Jail release agreement" means a written agreement:

537 (a) specifying and limiting the contact a person arrested for a domestic violence offense
538 may have with an alleged victim or other specified individuals; and

539 (b) specifying other conditions of release from jail as required in Subsection 77-36-2.5
540 (2).

541 [(6)] (7) "Jail release court order" means a written court order:

542 (a) specifying and limiting the contact a person arrested for a domestic violence offense
543 may have with an alleged victim or other specified individuals; and

544 (b) specifying other conditions of release from jail as required in Subsection
545 77-36-2.5(2).

546 [(7)] (8) "Marital status" means married and living together, divorced, separated, or not
547 married.

548 [(8)] (9) "Married and living together" means a man and a woman whose marriage was
549 solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

550 [(9)] (10) "Not married" means any living arrangement other than married and living
551 together, divorced, or separated.

552 [(10)] (11) "Pretrial protective order" means a written order:

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

555 (b) specifying other conditions of release pursuant to Subsection 77-36-2.5(3)(c),
556 Subsection 77-36-2.6(3), or Section 77-36-2.7, pending trial in the criminal case.

557 [~~(11)~~] (12) "Sentencing protective order" means a written order of the court as part of
558 sentencing in a domestic violence case that limits the contact a person who has been convicted
559 of a domestic violence offense may have with a victim or other specified individuals pursuant
560 to Sections 77-36-5 and 77-36-5.1.

561 [~~(12)~~] (13) "Separated" means a man and a woman who have had their marriage
562 solemnized under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

563 [~~(13)~~] (14) "Victim" means:

564 (a) a cohabitant who has been subjected to domestic violence[-]; or
565 (b) a person who has been subjected by a dating partner, as defined in Section
566 78B-7-102; to:

567 (i) abuse, as defined in Section 78B-7-102; or
568 (ii) dating violence.

569 Section 10. Section **77-36-2.1** is amended to read:

570 **77-36-2.1. Duties of law enforcement officers -- Notice to victims.**

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

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

575 (b) confiscating the weapon or weapons involved in the alleged domestic violence;

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

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

579 (e) arrange, facilitate, or provide for the victim and any child to obtain medical
580 treatment; and

581 (f) arrange, facilitate, or provide the victim with immediate and adequate notice of the
582 rights of victims and of the remedies and services available to victims of domestic violence, in
583 accordance with Subsection (2).

584 (2) (a) A law enforcement officer shall give written notice to the victim of domestic
585 violence in simple language, describing the rights and remedies available under this chapter,

586 Title 78B, Chapter 7, Part 1, Cohabitant and Dating Partner Abuse Act, and Title 78B, Chapter
587 7, Part 2, Child Protective Orders.

588 (b) The written notice shall also include:

589 (i) a statement that the forms needed in order to obtain an order for protection are
590 available from the court clerk's office in the judicial district where the victim resides or is
591 temporarily domiciled;

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

594 (iii) the information required to be provided to both parties in accordance with
595 Subsection 77-36-2.5~~(8)~~(9).

596 Section 11. Section **77-36-2.4** is amended to read:

597 **77-36-2.4. Violation of protective orders -- Mandatory arrest -- Penalties.**

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

601 (2) (a) Intentional or knowing violation of any ex parte protective order or protective
602 order is a class A misdemeanor, in accordance with Section 76-5-108, except where a greater
603 penalty is provided in this chapter, and, except for an order relating to parties who are dating
604 partners, as defined in Section 78B-7-102, is a domestic violence offense, pursuant to Section
605 77-36-1.

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

608 (3) As used in this section, "ex parte protective order" or "protective order" includes:

609 (a) any protective order or ex parte protective order issued under Title 78B, Chapter 7,
610 Part 1, Cohabitant and Dating Partner Abuse Act;

611 (b) any jail release agreement, jail release court order, pretrial protective order, or
612 sentencing protective order issued under Title 77, Chapter 36, Cohabitant Abuse Procedures
613 Act;

614 (c) any child protective order or ex parte child protective order issued under Title 78B,
615 Chapter 7, Part 2, Child Protective Orders; or

616 (d) a foreign protection order enforceable under Title 78B, Chapter 7, Part 3, Uniform

617 Interstate Enforcement of Domestic Violence Protection Orders Act.

618 Section 12. Section **77-36-2.7** is amended to read:

619 **77-36-2.7. Dismissal -- Diversion prohibited -- Plea in abeyance -- Pretrial
620 protective order pending trial.**

621 (1) Because of the serious nature of domestic violence, the court, in domestic violence
622 actions:

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

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

627 (c) shall waive any requirement that the victim's location be disclosed other than to the
628 defendant's attorney and order the defendant's attorney not to disclose the victim's location to
629 the client;

630 (d) shall identify, on the docket sheets, the criminal actions arising from acts of
631 domestic violence;

632 (e) may dismiss a charge on stipulation of the prosecutor and the victim; and

633 (f) may hold a plea in abeyance, in accordance with the provisions of Chapter 2a, Pleas
634 in Abeyance, making treatment or any other requirement for the defendant a condition of that
635 status.

636 (2) When the court holds a plea in abeyance in accordance with Subsection (1)(f), the
637 case against a perpetrator of domestic violence may be dismissed only if the perpetrator
638 successfully completes all conditions imposed by the court. If the defendant fails to complete
639 any condition imposed by the court under Subsection (1)(f), the court may accept the
640 defendant's plea.

641 (3) (a) Because of the likelihood of repeated violence directed at those who have been
642 victims of domestic violence or dating violence in the past, when any defendant is charged with
643 a crime involving domestic violence, or with violating a protective order relating to dating
644 partners, as defined in Section 78B-7-102, the court may, during any court hearing where the
645 defendant is present, issue a pretrial protective order, pending trial:

646 (i) enjoining the defendant from threatening to commit or committing acts of domestic
647 violence, dating violence, or abuse against the victim and any designated family or household

648 member;

649 (ii) prohibiting the defendant from harassing, telephoning, contacting, or otherwise
650 communicating with the victim, directly or indirectly;

651 (iii) removing and excluding the defendant from the victim's residence and the
652 premises of the residence;

653 (iv) ordering the defendant to stay away from the residence, school, place of
654 employment of the victim, and the premises of any of these, or any specified place frequented
655 by the victim and any designated family member; and

656 (v) ordering any other relief that the court considers necessary to protect and provide
657 for the safety of the victim and any designated family or household member.

658 (b) Violation of an order issued pursuant to this section is punishable as follows:

659 (i) if the original arrest or subsequent charge filed is a felony, an offense under this
660 section is a third degree felony; and

661 (ii) if the original arrest or subsequent charge filed is a misdemeanor, an offense under
662 this section is a class A misdemeanor.

663 (c) (i) The court shall provide the victim with a certified copy of any pretrial protective
664 order that has been issued if the victim can be located with reasonable effort.

665 (ii) The court shall also transmit the pretrial protective order to the statewide domestic
666 violence network.

667 (d) Issuance of a pretrial or sentencing protective order supercedes a written jail release
668 agreement or a written jail release court order issued by the court at the time of arrest.

669 (4) (a) When a court dismisses criminal charges or a prosecutor moves to dismiss
670 charges against a defendant accused of a domestic violence offense, the specific reasons for
671 dismissal shall be recorded in the court file and made a part of the statewide domestic violence
672 network described in Section 78B-7-113.

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

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

676 (5) When the privilege of confidential communication between spouses, or the
677 testimonial privilege of spouses is invoked in any criminal proceeding in which a spouse is the
678 victim of an alleged domestic violence offense, the victim shall be considered to be an

679 unavailable witness under the Utah Rules of Evidence.

680 (6) The court may not approve diversion for a perpetrator of domestic violence.

681 Section 13. Section **77-36-5.1** is amended to read:

682 **77-36-5.1. Conditions of probation for person convicted of domestic violence
offense.**

684 (1) Before any perpetrator who has been convicted of a domestic violence offense, or
685 of violating a protective order relating to dating partners, as defined in Section 78B-7-102, may
686 be placed on probation, the court shall consider the safety and protection of the victim and any
687 member of the victim's family or household.

688 (2) The court may condition probation or a plea in abeyance on the perpetrator's
689 compliance with one or more orders of the court, which may include a sentencing protective
690 order:

691 (a) enjoining the perpetrator from threatening to commit or committing acts of
692 domestic violence or dating violence against the victim or other family or household member;

693 (b) prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise
694 communicating with the victim, directly or indirectly;

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

698 (d) prohibiting the perpetrator from possessing or consuming alcohol or controlled
699 substances;

700 (e) prohibiting the perpetrator from purchasing, using, or possessing a firearm or other
701 specified weapon;

702 (f) directing the perpetrator to surrender any weapons the perpetrator owns or
703 possesses;

704 (g) directing the perpetrator to participate in and complete, to the satisfaction of the
705 court, a program of intervention for perpetrators, treatment for alcohol or substance abuse, or
706 psychiatric or psychological treatment;

707 (h) directing the perpetrator to pay restitution to the victim; and

708 (i) imposing any other condition necessary to protect the victim and any other
709 designated family or household member or to rehabilitate the perpetrator.

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

712 (4) (a) Adult Probation and Parole, or other provider, shall immediately report to the
713 court and notify the victim of any offense involving domestic violence committed by the
714 perpetrator, the perpetrator's failure to comply with any condition imposed by the court, and
715 any violation of any sentencing criminal protective order issued by the court.

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

719 (5) The court shall transmit all dismissals, terminations, and expirations of pretrial and
720 sentencing criminal protective orders issued by the court to the statewide domestic violence
721 network.

722 Section 14. Section **77-36-6** is amended to read:

723 **77-36-6. Enforcement of orders.**

724 (1) Each law enforcement agency in this state shall enforce all orders of the court
725 issued pursuant to the requirements and procedures described in this chapter, and shall enforce:

726 (a) all protective orders and ex parte protective orders issued pursuant to Title 78B,
727 Chapter 7, Part 1, Cohabitant and Dating Partner Abuse Act;

728 (b) jail release agreements, jail release court orders, pretrial protective orders, and
729 sentencing protective orders; and

730 (c) all foreign protection orders enforceable under Title 78B, Chapter 7, Part 3,
731 Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

732 (2) The requirements of this section apply statewide, regardless of the jurisdiction in
733 which the order was issued or the location of the victim or the perpetrator.

734 Section 15. Section **78A-6-103** is amended to read:

735 **78A-6-103. Jurisdiction of juvenile court -- Original -- Exclusive.**

736 (1) Except as otherwise provided by law, the juvenile court has exclusive original
737 jurisdiction in proceedings concerning:

738 (a) a child who has violated any federal, state, or local law or municipal ordinance or a
739 person younger than 21 years of age who has violated any law or ordinance before becoming
740 18 years of age, regardless of where the violation occurred, excluding offenses in Subsection

741 78A-7-106(2);
742 (b) a person 21 years of age or older who has failed or refused to comply with an order
743 of the juvenile court to pay a fine or restitution, if the order was imposed before the person's
744 21st birthday; however, the continuing jurisdiction is limited to causing compliance with
745 existing orders;
746 (c) a child who is an abused child, neglected child, or dependent child, as those terms
747 are defined in Section 78A-6-105;
748 (d) a protective order for a child pursuant to the provisions of Title 78B, Chapter 7,
749 Part 2, Child Protective Orders, which the juvenile court may transfer to the district court if the
750 juvenile court has entered an ex parte protective order and finds that:
751 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step
752 parent of the child who is the object of the petition;
753 (ii) the district court has a petition pending or an order related to custody or parent-time
754 entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant and Dating
755 Partner Abuse Act, or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the
756 petitioner and the respondent are parties; and
757 (iii) the best interests of the child will be better served in the district court;
758 (e) appointment of a guardian of the person or other guardian of a minor who comes
759 within the court's jurisdiction under other provisions of this section;
760 (f) the emancipation of a minor in accordance with Part 8, Emancipation;
761 (g) the termination of the legal parent-child relationship in accordance with Part 5,
762 Termination of Parental Rights Act, including termination of residual parental rights and
763 duties;
764 (h) the treatment or commitment of a minor who has an intellectual disability;
765 (i) a minor who is a habitual truant from school;
766 (j) the judicial consent to the marriage of a child under age 16 upon a determination of
767 voluntariness or where otherwise required by law, employment, or enlistment of a child when
768 consent is required by law;
769 (k) any parent or parents of a child committed to a secure youth corrections facility, to
770 order, at the discretion of the court and on the recommendation of a secure facility, the parent
771 or parents of a child committed to a secure facility for a custodial term, to undergo group

772 rehabilitation therapy under the direction of a secure facility therapist, who has supervision of
773 that parent's or parents' child, or any other therapist the court may direct, for a period directed
774 by the court as recommended by a secure facility;

775 (l) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

776 (m) the treatment or commitment of a child with a mental illness. The court may
777 commit a child to the physical custody of a local mental health authority in accordance with the
778 procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under
779 Age 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State
780 Hospital;

781 (n) the commitment of a child in accordance with Section 62A-15-301;

782 (o) de novo review of final agency actions resulting from an informal adjudicative
783 proceeding as provided in Section 63G-4-402; and

784 (p) adoptions conducted in accordance with the procedures described in Title 78B,
785 Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order
786 terminating the rights of a parent and finds that adoption is in the best interest of the child.

787 (2) Notwithstanding Section 78A-7-106 and Subsection 78A-5-102(9), the juvenile
788 court has exclusive jurisdiction over the following offenses committed by a child:

789 (a) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

790 (b) Section 73-18-12, reckless operation; and

791 (c) class B and C misdemeanors, infractions, or violations of ordinances that are part of
792 a single criminal episode filed in a petition that contains an offense over which the court has
793 jurisdiction.

794 (3) The juvenile court has jurisdiction over an ungovernable or runaway child who is
795 referred to it by the Division of Child and Family Services or by public or private agencies that
796 contract with the division to provide services to that child where, despite earnest and persistent
797 efforts by the division or agency, the child has demonstrated that the child:

798 (a) is beyond the control of the child's parent, guardian, lawful custodian, or school
799 authorities to the extent that the child's behavior or condition endangers the child's own welfare
800 or the welfare of others; or

801 (b) has run away from home.

802 (4) This section does not restrict the right of access to the juvenile court by private

803 agencies or other persons.

804 (5) The juvenile court has jurisdiction of all magistrate functions relative to cases
805 arising under Section 78A-6-702.

806 (6) The juvenile court has jurisdiction to make a finding of substantiated,
807 unsubstantiated, or without merit, in accordance with Section 78A-6-323.

808 (7) The juvenile court has jurisdiction of matters transferred to it by another trial court
809 pursuant to Subsection 78A-7-106(7).

810 Section 16. Section **78B-7-101** is amended to read:

811 **78B-7-101. Title.**

812 This part is known [and may be cited] as the "Cohabitant and Dating Partner Abuse
813 Act."

814 Section 17. Section **78B-7-102** is amended to read:

815 **78B-7-102. Definitions.**

816 As used in this chapter:

817 (1) "Abuse" means intentionally or knowingly:

818 (a) causing or attempting to cause [a cohabitant] physical harm to a person; or
819 [intentionally or knowingly]

820 (b) placing [a cohabitant] a person in reasonable fear of imminent physical harm.

821 (2) (a) "Cohabitant" means a person who:

822 (i) (A) is an emancipated person pursuant to Section 15-2-1 or Title 78A, Chapter 6,
823 Part 8, Emancipation; or

824 (B) a person who is 16 years of age or older [who:]; and

825 [(a)] (ii) (A) is or was a spouse of the other party;

826 [(b)] (B) is or was living as if a spouse of the other party;

827 [(c)] (C) is related by blood or marriage to the other party;

828 [(d)] (D) has one or more children in common with the other party;

829 [(e)] (E) is the biological parent of the other party's unborn child; or

830 [(f)] (F) resides or has resided in the same residence as the other party.

831 (3) Notwithstanding Subsection (2)(a), "cohabitant" does not include:

832 (a) the relationship of [natural] biological parent, adoptive parent, or step-parent to a
833 minor; or

834 (b) the relationship between [natural] biological, adoptive, step, or foster siblings who
835 are under 18 years of age.

836 [¶4] (3) "Court clerk" means a district court clerk.

837 (4) "Dating partner" means a person who:

838 (a) (i) is an emancipated person under Section 15-2-1 or Title 78A, Chapter 6, Part 8,
839 Emancipation; or

840 (ii) is 18 years of age or older;

841 (b) is, or has been, in a dating relationship with the other party; and

842 (c) is not, and has not been, a cohabitant of the other party.

843 (5) (a) "Dating relationship" means a social relationship of romantic or intimate nature,
844 regardless of whether the relationship involves sexual intimacy.

845 (b) "Dating relationship" does not include:

846 (i) a casual relationship; or

847 (ii) casual fraternization between two individuals in a business, educational, or social
848 context.

849 (c) In determining, based on a totality of the circumstances, whether a dating
850 relationship exists:

851 (i) all relevant factors should be considered, including:

852 (A) whether the parties developed interpersonal bonding over and above a mere casual
853 fraternization;

854 (B) the length of the parties' relationship;

855 (C) the nature and frequency of the parties' interactions;

856 (D) the ongoing expectations of the parties, individual or jointly, with respect to the
857 relationship;

858 (E) whether, by statement or conduct, the parties demonstrated an affirmation of their
859 relationship before others; and

860 (F) whether other reasons exist that support or detract from a finding that a dating
861 relationship exists; and

862 (ii) it is not necessary that all, or a particular number, of the factors described in
863 Subsection (5)(c)(i) are found to support the existence of a dating relationship.

864 (6) "Dating violence" means:

865 (a) any criminal offense involving violence or physical harm or threat of violence or
866 physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense
867 involving violence or physical harm, when committed by a person against a dating partner of
868 the person; or

869 (b) the commission or attempt to commit, any of the following offenses by a person
870 against a dating partner of the person:

871 (i) aggravated assault, as described in Section 76-5-103;
872 (ii) assault, as described in Section 76-5-102;
873 (iii) criminal homicide, as described in Section 76-5-201;
874 (iv) harassment, as described in Section 76-5-106;
875 (v) electronic communication harassment, as described in Section 76-9-201;
876 (vi) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections
877 76-5-301, 76-5-301.1, and 76-5-302;
878 (vii) mayhem, as described in Section 76-5-105;
879 (viii) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and
880 Title 76, Chapter 5a, Sexual Exploitation of Children;
881 (ix) stalking, as described in Section 76-5-106.5;
882 (x) unlawful detention, as described in Section 76-5-304;
883 (xi) violation of a protective order, as described in Section 76-5-108;
884 (xii) any offense against property described in Title 76, Chapter 6, Part 1, Property
885 Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6,
886 Part 3, Robbery;
887 (xiii) possession of a deadly weapon with intent to assault, as described in Section
888 76-10-507; or
889 (xiv) a felony offense under Section 76-10-508, discharge of a firearm from a vehicle
890 near a highway, or in the direction of any person, building, or vehicle.

891 [(5)] (7) "Domestic violence" means the same as that term is defined in Section
892 77-36-1.

893 [(6)] (8) "Ex parte protective order" means an order issued without notice to the
894 defendant in accordance with this chapter.

895 [(7)] (9) "Foreign protection order" is as defined in Section 78B-7-302.

896 [§8] (10) "Law enforcement unit" or "law enforcement agency" means any public
897 agency having general police power and charged with making arrests in connection with
898 enforcement of the criminal statutes and ordinances of this state or any political subdivision.

899 [§9] (11) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace
900 Officer Classifications.

901 [§10] (12) "Protective order" means an order issued pursuant to this chapter
902 subsequent to a hearing on the petition, of which the petitioner and respondent have been given
903 notice in accordance with this chapter.

904 Section 18. Section **78B-7-103** is amended to read:

905 **78B-7-103. Abuse or danger of abuse -- Protective orders.**

906 (1) (a) Any ~~[cohabitant who has been subjected to abuse or domestic violence, or to~~
907 ~~whom there is a substantial likelihood of abuse or domestic violence;]~~ person may seek an ex
908 parte protective order or a protective order in accordance with this chapter, if the person is
909 subjected to, or there is a substantial likelihood that the person will be subjected to:

910 (i) abuse by a cohabitant or dating partner of the person;

911 (ii) domestic violence by a cohabitant of the person; or

912 (iii) dating violence by a dating partner of the person.

913 (b) A person may seek an order described in Subsection (1)(a), whether or not that
914 person:

915 (i) has left the residence or the premises in an effort to avoid further abuse[-]; or

916 (ii) has taken other action to end the relationship.

917 (2) A petition for a protective order may be filed under this chapter regardless of
918 whether an action for divorce between the parties is pending.

919 (3) A petition seeking a protective order may not be withdrawn without approval of the
920 court.

921 Section 19. Section **78B-7-105** is amended to read:

922 **78B-7-105. Forms for petitions and protective orders -- Assistance.**

923 (1) (a) The offices of the court clerk shall provide forms and nonlegal assistance to
924 persons seeking to proceed under this chapter.

925 (b) The Administrative Office of the Courts shall develop and adopt uniform forms for
926 petitions and orders for protection in accordance with the provisions of this chapter. That

927 office shall provide the forms to the clerk of each court authorized to issue protective orders.

928 The forms shall include:

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

932 (ii) a separate portion of the form for those provisions, the violation of which is a
933 criminal offense, and a separate portion for those provisions, the violation of which is a civil
934 violation, as provided in Subsection 78B-7-106~~(5)~~ (6);

935 (iii) language in the criminal provision portion stating violation of any criminal
936 provision is a class A misdemeanor, and language in the civil portion stating violation of or
937 failure to comply with a civil provision is subject to contempt proceedings;

938 (iv) a space for information the petitioner is able to provide to facilitate identification
939 of the respondent, such as Social Security number, driver license number, date of birth,
940 address, telephone number, and physical description;

941 (v) a space for the petitioner to request a specific period of time for the civil provisions
942 to be in effect, not to exceed 150 days, unless the petitioner provides in writing the reason for
943 the requested extension of the length of time beyond 150 days;

944 (vi) a statement advising the petitioner that when a minor child is included in an ex
945 parte protective order or a protective order, as part of either the criminal or the civil portion of
946 the order, the petitioner may provide a copy of the order to the principal of the school where the
947 child attends; and

948 (vii) a statement advising the petitioner that if the respondent fails to return custody of
949 a minor child to the petitioner as ordered in a protective order, the petitioner may obtain from
950 the court a writ of assistance.

951 (2) If the person seeking to proceed under this chapter is not represented by an
952 attorney, it is the responsibility of the court clerk's office to provide:

953 (a) the forms adopted pursuant to Subsection (1);

954 (b) all other forms required to petition for an order for protection including, but not
955 limited to, forms for service;

956 (c) clerical assistance in filling out the forms and filing the petition, in accordance with
957 Subsection (1)(a). A court clerk's office may designate any other entity, agency, or person to

958 provide that service, but the court clerk's office is responsible to see that the service is
959 provided;

960 (d) information regarding the means available for the service of process;
961 (e) a list of legal service organizations that may represent the petitioner in an action
962 brought under this chapter, together with the telephone numbers of those organizations; and
963 (f) written information regarding the procedure for transporting a jailed or imprisoned
964 respondent to the protective order hearing, including an explanation of the use of transportation
965 order forms when necessary.

966 (3) No charges may be imposed by a court clerk, constable, or law enforcement agency
967 for:

968 (a) filing a petition under this chapter;
969 (b) obtaining an ex parte protective order;
970 (c) obtaining copies, either certified or not certified, necessary for service or delivery to
971 law enforcement officials; or
972 (d) fees for service of a petition, ex parte protective order, or protective order.

973 (4) A petition for an order of protection shall be in writing and verified.

974 (5) (a) All orders for protection shall be issued in the form adopted by the
975 Administrative Office of the Courts pursuant to Subsection (1).

976 (b) Each protective order issued, except orders issued ex parte, shall include the
977 following language:

978 "Respondent was afforded both notice and opportunity to be heard in the hearing that
979 gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322,
980 108 Stat. 1796, 18 U.S.C.A. 2265, this order is valid in all the United States, the District of
981 Columbia, tribal lands, and United States territories. This order complies with the Uniform
982 Interstate Enforcement of Domestic Violence Protection Orders Act."

983 (c) Each protective order issued in accordance with this part, including protective
984 orders issued ex parte, shall include the following language:

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

989 to the court that the petitioner no longer has a reasonable fear of the respondent."

990 Section 20. Section **78B-7-106** is amended to read:

991 **78B-7-106. Protective orders -- Ex parte protective orders -- Modification of
992 orders -- Service of process -- Duties of the court.**

993 (1) If it appears from a petition for an order for protection or a petition to modify an
994 order for protection that domestic violence, dating violence, or abuse has occurred or a
995 modification of an order for protection is required, a court may:

996 (a) without notice, immediately issue an order for protection ex parte or modify an
997 order for protection ex parte as [it] the court considers necessary to protect the petitioner and
998 all parties named to be protected in the petition; or

999 (b) upon notice, issue an order for protection or modify an order after a hearing,
1000 whether or not the respondent appears.

1001 (2) A court may grant the following relief without notice in an order for protection or a
1002 modification issued ex parte:

1003 (a) enjoin the respondent from threatening to commit or committing domestic violence,
1004 dating violence, or abuse against the petitioner and any designated family or household
1005 member;

1006 (b) prohibit the respondent from harassing, telephoning, contacting, or otherwise
1007 communicating with the petitioner, directly or indirectly;

1008 (c) order that the respondent:

1009 (i) is excluded and shall stay away from the petitioner's residence and its premises[;
1010 ~~and order the respondent to stay away from the residence, school, or place of employment of
1011 the petitioner, and the premises of any of these, or any specified place frequented by the
1012 petitioner and any designated family or household member~~];

1013 (ii) except as provided in Subsection (4), stay away from the petitioner's:

1014 (A) school and the school's premises; and

1015 (B) place of employment and its premises; and

1016 (iii) stay away from any specified place frequented by the petitioner or any designated
1017 family or household member;

1018 (d) prohibit the respondent from being within a specified distance of the petitioner;

1019 (e) upon finding that the respondent's use or possession of a weapon may pose a

1020 serious threat of harm to the petitioner, prohibit the respondent from purchasing, using, or
1021 possessing a firearm or other weapon specified by the court;

1022 [e] (f) order possession and use of an automobile and other essential personal effects,
1023 and direct the appropriate law enforcement officer to accompany the petitioner to the residence
1024 of the parties to ensure that the petitioner is safely restored to possession of the residence,
1025 automobile, and other essential personal effects, or to supervise the petitioner's or respondent's
1026 removal of personal belongings;

1027 [f] (g) if the petitioner is a cohabitant of the other party, grant to the petitioner
1028 temporary custody of any minor children of the parties;

1029 [g] (h) order the appointment of the office of the Guardian Ad Litem to represent the
1030 interests of any minor children of the parties, if abuse or neglect of the minor children is
1031 alleged, or appoint a private guardian ad litem, if appropriate, pursuant to Section 78A-2-228;

1032 [h] (i) order any further relief that the court considers necessary to provide for the
1033 safety and welfare of the petitioner and any designated family or household member; and

1034 [i] (j) if [the] a petition by a cohabitant requests child support or spousal support, at
1035 the hearing on the petition order both parties to provide verification of current income,
1036 including year-to-date pay stubs or employer statements of year-to-date or other period of
1037 earnings, as specified by the court, and complete copies of tax returns from at least the most
1038 recent year.

1039 (3) A court may grant the following relief in an order for protection or a modification
1040 of an order after notice and hearing, whether or not the respondent appears:

1041 (a) grant the relief described in Subsection (2); and

1042 (b) if the petitioner is a cohabitant of the other party, specify arrangements for
1043 parent-time of any minor child by the respondent and require supervision of that parent-time by
1044 a third party or deny parent-time if necessary to protect the safety of the petitioner or child.

1045 (4) If the petitioner is a dating partner of the respondent, a court:

1046 (a) may not enter an order under Subsection (2)(c)(ii) that:

1047 (i) excludes the respondent from the petitioner's school if the respondent attends the
1048 same school as the petitioner; or

1049 (ii) excludes the respondent from the petitioner's place of employment if the
1050 respondent is employed at the same location as the petitioner; and

1051 **(b) may enter an order governing the respondent's conduct at a location described in**
1052 **Subsection (4)(a).**

1053 **[~~(4)~~] (5)** Following the protective order hearing, the court shall:

1054 **(a) clearly distinguish whether the order relates to cohabitants or dating partners;**

1055 **[~~(a)~~] (b)** as soon as possible, deliver the order to the county sheriff for service of
1056 process;

1057 **[~~(b)~~] (c)** make reasonable efforts to ensure that the order for protection is understood by
1058 the petitioner, and the respondent, if present;

1059 **[~~(c)~~] (d)** transmit electronically, by the end of the next business day after the order is
1060 issued, a copy of the order for protection to the local law enforcement agency or agencies
1061 designated by the petitioner; and

1062 **[~~(d)~~] (e)** transmit a copy of the order to the statewide domestic violence network
1063 described in Section 78B-7-113.

1064 **[~~(5)~~] (6) (a)** Each protective order shall include two separate portions, one for
1065 provisions, the violation of which are criminal offenses, and one for provisions, the violation of
1066 which are civil violations, as follows:

1067 (i) criminal offenses are those under Subsections (2)(a) through [~~(e)~~] (f), and under
1068 Subsection (3)(a) as it refers to Subsections (2)(a) through [~~(e)~~] (f); and

1069 (ii) civil offenses are those under Subsections (2)[~~(f), (h), and (i)~~] (g), (i), and (j), and
1070 Subsection (3)(a) as it refers to Subsections (2)[~~(f), (h), and (i)~~] (g), (i), and (j).

1071 (b) The criminal provision portion shall include a statement that violation of any
1072 criminal provision is a class A misdemeanor.

1073 (c) The civil provision portion shall include a notice that violation of or failure to
1074 comply with a civil provision is subject to contempt proceedings.

1075 **[~~(6)~~] (7)** The protective order shall include:

1076 (a) a designation of a specific date, determined by the court, when the civil portion of
1077 the protective order either expires or is scheduled for review by the court, which date may not
1078 exceed 150 days after the date the order is issued, unless the court indicates on the record the
1079 reason for setting a date beyond 150 days;

1080 (b) information the petitioner is able to provide to facilitate identification of the
1081 respondent, such as Social Security number, driver license number, date of birth, address,

1082 telephone number, and physical description; and
1083 (c) except for a protective order described in Subsection (8)(a), a statement advising
1084 the petitioner that:
1085 (i) after two years from the date of issuance of the protective order, a hearing may be
1086 held to dismiss the criminal portion of the protective order;
1087 (ii) the petitioner should, within the 30 days prior to the end of the two-year period,
1088 advise the court of the petitioner's current address for notice of any hearing; and
1089 (iii) the address provided by the petitioner will not be made available to the respondent.
1090 (8) (a) A protective order issued under this section between parties who are dating
1091 partners shall expire 180 days after the day on which the order is issued, unless, subject to
1092 Subsection (8)(b), the court indicates on the record the reason for setting an expiration date that
1093 is more than 180 days after the day on which the order is issued.
1094 (b) A court may not set an expiration date for a protective order described in
1095 Subsection (8)(a) that is more than two years after the day on which the order is issued.
1096 [~~(7)~~] (9) Child support and spouse support orders issued as part of a protective order
1097 are subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income
1098 Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non
1099 IV-D Cases, except when the protective order is issued ex parte.
1100 [~~(8)~~] (10) (a) The county sheriff that receives the order from the court, pursuant to
1101 Subsection [~~(5)~~] (6)(a), shall provide expedited service for orders for protection issued in
1102 accordance with this chapter, and shall transmit verification of service of process, when the
1103 order has been served, to the statewide domestic violence network described in Section
1104 78B-7-113.
1105 (b) This section does not prohibit any law enforcement agency from providing service
1106 of process if that law enforcement agency:
1107 (i) has contact with the respondent and service by that law enforcement agency is
1108 possible; or
1109 (ii) determines that under the circumstances, providing service of process on the
1110 respondent is in the best interests of the petitioner.
1111 [~~(9)~~] (11) (a) When an order is served on a respondent in a jail or other holding facility,
1112 the law enforcement agency managing the facility shall make a reasonable effort to provide

1113 notice to the petitioner at the time the respondent is released from incarceration.

1114 (b) Notification of the petitioner shall consist of a good faith reasonable effort to
1115 provide notification, including mailing a copy of the notification to the last-known address of
1116 the victim.

1117 [¶10] (12) A court may modify or vacate an order of protection or any provisions in
1118 the order after notice and hearing, except that the criminal provisions of a protective order may
1119 not be vacated within two years of issuance unless the petitioner:

1120 (a) is personally served with notice of the hearing as provided in Rules 4 and 5, Utah
1121 Rules of Civil Procedure, and the petitioner personally appears before the court and gives
1122 specific consent to the vacation of the criminal provisions of the protective order; or

1123 (b) submits a verified affidavit, stating agreement to the vacation of the criminal
1124 provisions of the protective order.

1125 [¶11] (13) A protective order may be modified without a showing of substantial and
1126 material change in circumstances.

1127 [¶12] (14) Insofar as the provisions of this chapter are more specific than the Utah
1128 Rules of Civil Procedure, regarding protective orders, the provisions of this chapter govern.

1129 Section 21. Section **78B-7-107** is amended to read:

1130 **78B-7-107. Hearings on ex parte orders.**

1131 (1) (a) When a court issues an ex parte protective order the court shall set a date for a
1132 hearing on the petition within 20 days after the ex parte order is issued.

1133 (b) If at [that] the hearing described in Subsection (1)(a) the court does not issue a
1134 protective order, the ex parte protective order shall expire, unless it is otherwise extended by
1135 the court. Extensions beyond the 20-day period may not be granted unless:

1136 (i) the petitioner is unable to be present at the hearing;

1137 (ii) the respondent has not been served;

1138 (iii) the respondent has had the opportunity to present a defense at the hearing;

1139 (iv) the respondent requests that the ex parte order be extended; or

1140 (v) exigent circumstances exist.

1141 (c) Under no circumstances may an ex parte order be extended beyond 180 days from
1142 the date of initial issuance.

1143 (d) If at [that] the hearing described in Subsection (1)(a), the court issues a protective

1144 order, the ex parte protective order remains in effect until service of process of the protective
1145 order is completed.

1146 (e) A protective order issued after notice and a hearing is effective until further order of
1147 the court.

1148 (f) If the hearing on the petition is heard by a commissioner, either the petitioner or
1149 respondent may file an objection within 10 days of the entry of the recommended order and the
1150 assigned judge shall hold a hearing within 20 days of the filing of the objection.

1151 (2) Upon a hearing under this section, the court may grant any of the relief described in
1152 Section 78B-7-106.

1153 (3) When a court denies a petition for an ex parte protective order or a petition to
1154 modify an order for protection ex parte, upon the request of the petitioner, the court shall set
1155 the matter for hearing and notify the petitioner and serve the respondent.

1156 (4) (a) A respondent who has been served with an ex parte protective order may seek to
1157 vacate the ex parte protective order prior to the hearing scheduled pursuant to Subsection (1)(a)
1158 by filing a verified motion to vacate.

1159 (b) The [respondent's verified] motion [to vacate] described in Subsection (4)(a) and a
1160 notice of hearing on that motion shall be personally served on the petitioner at least two days
1161 prior to the hearing on the motion to vacate.

1162 Section 22. Section **78B-7-108** is amended to read:

78B-7-108. Mutual protective orders prohibited.

1164 (1) A court may not grant a mutual order or mutual orders for protection to opposing
1165 parties, unless each party:

1166 (a) has filed an independent petition against the other for a protective order, and both
1167 petitions have been served;

1168 (b) makes a showing at a due process protective order hearing of [abuse or] domestic
1169 violence, dating violence, or abuse committed by the other party; and

1170 (c) demonstrates that the [abuse or] domestic violence, dating violence, or abuse did
1171 not occur in self-defense.

1172 (2) If the court issues mutual protective orders, the circumstances justifying those
1173 orders shall be documented in the case file.

1174 Section 23. Section **78B-7-110** is amended to read:

1175 **78B-7-110. No denial of relief solely because of lapse of time.**

1176 The court may not deny a petitioner relief requested pursuant to this chapter solely
1177 because of a lapse of time between an act of domestic violence, dating violence, or abuse and
1178 the filing of the petition for an order of protection.

1179 Section 24. Section **78B-19-107** is amended to read:

1180 **78B-19-107. Emergency orders.**

1181 During a collaborative law process, a court may issue emergency orders, including
1182 protective orders in accordance with Title 78B, Chapter 7, Part 1, Cohabitant and Dating
1183 Partner Abuse Act, or Title 78B, Chapter 7, Part 2, Child Protective Orders, to protect the
1184 health, safety, welfare, or interest of a party or member of a party's household.

1185 Section 25. **Effective date.**

1186 This bill takes effect on September 1, 2012.

Legislative Review Note
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