

# H.B. 248

## DOMESTIC VIOLENCE RELATED AMENDMENTS

Representative **LaVar Christensen** proposes the following amendments:

1. *Page 1, Lines 13 through 18:*

- 13            ~~{ → modifies conditions for release after arrest for domestic violence; }~~  
              **▶ addresses designating a person that communicates between a defendant and victim;**  
14            ▶ addresses enforcement of restitution requirements;  
15            ▶ provides the process for the issuance of continuous protective orders;  
16            ▶ addresses form for protective orders;  
17            ▶ modifies conditions for dismissals of protective orders; **and**  
18            ~~{ → enacts language related to enforcement of domestic violence related provisions; and }~~

2. *Page 2, Lines 30 through 31:*

- 30            ~~{ 77-36-2.5, as last amended by Laws of Utah 2016, Chapter 422 }~~  
              **77-36-2.6, as last amended by Laws of Utah 2010, Chapter 384**  
31            77-36-5, as last amended by Laws of Utah 2016, Chapter 422

3. *Page 2, Lines 36 through 37:*

- 36            ~~{ ENACTS:~~  
37            ~~—— 77-36-11, Utah Code Annotated 1953 }~~

4. *Page 8 through Page 12, Lines 219 through 340:*           Delete Lines 219 through 340

5. *Page 12, Line 340:*

- 340   a substantial danger to an alleged victim of domestic violence if released on bail.  
      =   **Section 6. Section 77-36-2.6 is amended to read:**  
          **77-36-2.6. Appearance of defendant required -- Determinations by court -- Pretrial protective order.**  
          (1) A defendant who has been arrested for an offense involving domestic violence shall appear in person or by video before the court or a magistrate within one judicial day after the arrest.  
          (2) A defendant who has been charged by citation, indictment, or information with an offense involving domestic violence but has not been arrested, shall appear before the court in person for arraignment or initial appearance as soon as practicable, but no later than 14 days after the next day on which court is in session following the issuance of the citation or the filing of the indictment or information.  
          (3) At the time of an appearance under Subsection (1) or (2), the court shall **:**

(a) determine the necessity of imposing a pretrial protective order or other condition of pretrial release including ~~{, but not limited to,}~~ participating in an electronic or other type of monitoring program ~~{, and shall}~~ ;

(b) determine whether to designate a person that may communicate between the defendant and the victim if and to the extent necessary for family related matters; and

(c) state its findings and determination in writing.

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

## Renumber remaining sections accordingly.

### 6. Page 14, Lines 409 through 414:

409 (6) (a) Because of the serious, unique, and highly ~~{emotional}~~ traumatic nature of domestic  
410 violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased  
411 risk of continued acts of violence subsequent to the release of a perpetrator who is convicted of  
412 domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the  
413 issuance of continuous protective orders under this Subsection (6) because of the need to provide ongoing  
protection for  
414 the victim and to be consistent with the purposes of protecting victims' rights under Chapter 37,  
Victims' Rights, and Chapter 38, Rights of Crime Victims Act .

### 7. Page 14, Lines 415 through 423:

415 (b) If a perpetrator is convicted ~~{for}~~ of a domestic violence offense resulting in  
~~{incarceration}~~ a sentence of imprisonment, including jail, that is to be served after conviction  
, the  
416 court shall issue a continuous protective order at the time of the conviction or sentencing  
417 limiting the contact between the perpetrator and the victim unless the court determines by clear  
418 and convincing evidence that the victim does not have a reasonable fear of future harm or  
419 abuse.  
420 (c) (i) The court shall notify the perpetrator of the right to request a hearing.  
421 (ii) If the perpetrator requests a hearing under this Subsection (6)(c), the court shall  
422 hold the hearing at the time ~~{of the conviction or sentencing unless the court determines~~  
423 otherwise for good cause} determined by the court. The continuous protective order shall be in  
effect while the hearing is being scheduled and while the hearing is pending .

### 8. Page 15, Lines 437 through 442:

437 (e) (i) A continuous protective order may be modified or dismissed only ~~{~~  
438 ~~(i)}~~ after the continuous protective order has been in effect for at least two years and only if  
the court determines by clear and convincing evidence that all requirements of

439 this Subsection (6) have been met and the victim does not have a reasonable fear of future harm  
440 or abuse {~~or~~  
441 ——(ii) if the perpetrator and victim stipulate in writing to a modification or dismissal and  
442 files the stipulation with the court in support of a petition for modification or dismissal} .

**(ii) The two-year period described in Subsection (6)(e)(i) is tolled for any period of time that the perpetrator is incarcerated.**

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9. Page 16, Lines 465 through 468:

465 { ~~Section 8. Section 77-36-11 is enacted to read:~~  
466 ~~77-36-11. Enforcement:~~  
467 ~~This chapter shall be enforced fully and consistently with Title 78B, Chapter 7, Part 1,~~  
468 ~~Cohabitant Abuse Act.~~ }