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Protective Orders Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Trevor Lee

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LONG TITLE**General Description:**

This bill addresses protective orders.

Highlighted Provisions:

This bill:

- defines terms for cohabitant abuse protective orders;

- provides that a court may treat a petition for a protective order as a request for a no-fault cohabitant abuse protective order only if the petitioner and the respondent agree to the order and the terms of the order;

- allows a court to grant a no-fault cohabitant abuse protective order if the parties agree to the terms of the order;

- addresses the modification of a no-fault cohabitant abuse protective order;

- requires a no-fault cohabitant abuse protective order include a credible threat finding;

- provides that a no-fault cohabitant abuse protective order may not be introduced as

evidence in a civil or criminal proceeding that the respondent committed domestic violence or abuse;

- clarifies that a no-fault cohabitant abuse protective order does not prevent a petitioner from obtaining an ex parte cohabitant abuse protective order or a cohabitant abuse protective order;

- modifies a cross-reference regarding the provisions of a cohabitant abuse protective order that are civil offenses; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 31 **78B-7-102**, as last amended by Laws of Utah 2023, Chapter 170
 32 **78B-7-117**, as renumbered and amended by Laws of Utah 2020, Chapter 142
 33 **78B-7-601**, as enacted by Laws of Utah 2020, Chapter 142
 34 **78B-7-603**, as last amended by Laws of Utah 2023, Chapter 330

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

37 Section 1. Section **78B-7-102** is amended to read:

38 **78B-7-102 . Definitions.**

39 As used in this chapter:

40 (1) "Abuse" means, except as provided in Section 78B-7-201, intentionally or knowingly
 41 causing or attempting to cause another individual physical harm or intentionally or
 42 knowingly placing another individual in reasonable fear of imminent physical harm.

43 (2) "Affinity" means the same as that term is defined in Section 76-1-101.5.

44 (3) "Child" means an individual who is younger than 18 years old.

45 [~~(3)~~] (4) "Civil protective order" means an order issued, subsequent to a hearing on the
 46 petition, of which the petitioner and respondent have been given notice, under:

- 47 (a) Part 2, Child Protective Orders;
 48 (b) Part 4, Dating Violence Protective Orders;
 49 (c) Part 5, Sexual Violence Protective Orders;
 50 (d) Part 6, Cohabitant Abuse Protective Orders; or
 51 (e) Part 11, Workplace Violence Protective Orders.

52 [~~(4)~~] (5) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil
 53 Stalking Injunctions.

54 [~~(5)~~] (6)(a) "Cohabitant" means an emancipated individual under Section 15-2-1 or an
 55 individual who is 16 years old or older who:

- 56 (i) is or was a spouse of the other party;
 57 (ii) is or was living as if a spouse of the other party;
 58 (iii) is related by blood or marriage to the other party as the individual's parent,
 59 grandparent, sibling, or any other individual related to the individual by
 60 consanguinity or affinity to the second degree;
 61 (iv) has or had one or more children in common with the other party;
 62 (v) is the biological parent of the other party's unborn minor child;
 63 (vi) resides or has resided in the same residence as the other party; or
 64 (vii) is or was in a consensual sexual relationship with the other party.

- 65 (b) "Cohabitant" does not include:
- 66 (i) the relationship of natural parent, adoptive parent, or step-parent to a minor child;
- 67 or
- 68 (ii) the relationship between natural, adoptive, step, or foster siblings who are under
- 69 18 years old.
- 70 ~~[(6)]~~ (7) "Consanguinity" means the same as that term is defined in Section 76-1-101.5.
- 71 ~~[(7)]~~ (8) "Criminal protective order" means an order issued under Part 8, Criminal Protective
- 72 Orders.
- 73 ~~[(8)]~~ (9) "Criminal stalking injunction" means a stalking injunction issued under Part 9,
- 74 Criminal Stalking Injunctions.
- 75 ~~[(9)]~~ (10) "Court clerk" means a district court clerk.
- 76 ~~[(10)]~~ (11)(a) "Dating partner" means an individual who:
- 77 (i)(A) is an emancipated individual under Section 15-2-1 or Title 80, Chapter 7,
- 78 Emancipation; or
- 79 (B) is 18 years old or older; and
- 80 (ii) is, or has been, in a dating relationship with the other party.
- 81 (b) "Dating partner" does not include an intimate partner.
- 82 ~~[(11)]~~ (12)(a) "Dating relationship" means a social relationship of a romantic or intimate
- 83 nature, or a relationship which has romance or intimacy as a goal by one or both
- 84 parties, regardless of whether the relationship involves sexual intimacy.
- 85 (b) "Dating relationship" does not include casual fraternization in a business,
- 86 educational, or social context.
- 87 (c) In determining, based on a totality of the circumstances, whether a dating
- 88 relationship exists:
- 89 (i) all relevant factors shall be considered, including:
- 90 (A) whether the parties developed interpersonal bonding above a mere casual
- 91 fraternization;
- 92 (B) the length of the parties' relationship;
- 93 (C) the nature and the frequency of the parties' interactions, including
- 94 communications indicating that the parties intended to begin a dating
- 95 relationship;
- 96 (D) the ongoing expectations of the parties, individual or jointly, with respect to
- 97 the relationship;
- 98 (E) whether, by statement or conduct, the parties demonstrated an affirmation of

- 99 their relationship to others; and
- 100 (F) whether other reasons exist that support or detract from a finding that a dating
- 101 relationship exists; and
- 102 (ii) it is not necessary that all, or a particular number, of the factors described in
- 103 Subsection (11)(c)(i) are found to support the existence of a dating relationship.
- 104 (13) "Dating violence" means:
- 105 (a) a criminal offense involving violence or physical harm, or threat of violence or
- 106 physical harm, when committed by an individual against a dating partner; or
- 107 (b) an attempt, a conspiracy, or a solicitation by an individual to commit a criminal
- 108 offense involving violence or physical harm against a dating partner of the individual.
- 109 ~~[(12)]~~ (14) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 110 ~~[(13)]~~ (15) "Ex parte civil protective order" means an order issued without notice to the
- 111 respondent under:
- 112 (a) Part 2, Child Protective Orders;
- 113 (b) Part 4, Dating Violence Protective Orders;
- 114 (c) Part 5, Sexual Violence Protective Orders;
- 115 (d) Part 6, Cohabitant Abuse Protective Orders; or
- 116 (e) Part 11, Workplace Violence Protective Orders.
- 117 ~~[(14)]~~ (16) "Ex parte civil stalking injunction" means a stalking injunction issued without
- 118 notice to the respondent under Part 7, Civil Stalking Injunctions.
- 119 ~~[(15)]~~ (17) "Foreign protection order" means the same as that term is defined in Section
- 120 78B-7-302.
- 121 ~~[(16)]~~ (18) "Household animal" means an animal that is tamed and kept as a pet.
- 122 ~~[(17)]~~ (19) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.
- 123 ~~[(18)]~~ (20) "Law enforcement unit" or "law enforcement agency" means any public agency
- 124 having general police power and charged with making arrests in connection with
- 125 enforcement of the criminal statutes and ordinances of this state or any political
- 126 subdivision.
- 127 (21) "Minor child" means the same as that term is defined in Section 81-1-101.
- 128 ~~[(19)]~~ (22) "Peace officer" means those individuals specified in Title 53, Chapter 13, Peace
- 129 Officer Classifications.
- 130 ~~[(20)]~~ (23) "Qualifying domestic violence offense" means the same as that term is defined in
- 131 Section 77-36-1.1.
- 132 ~~[(21)]~~ (24) "Respondent" means the individual against whom enforcement of a protective

133 order is sought.

134 [~~(22)~~] (25) "Stalking" means the same as that term is defined in Section 76-5-106.5.

135 Section 2. Section **78B-7-117** is amended to read:

136 **78B-7-117 . Court order for transfer of wireless telephone number.**

137 (1) As used in this section, "wireless service provider" means a provider of commercial
138 mobile service under Section 332(d) of the Federal Telecommunications Act of 1996.

139 (2) At or after the time that a court issues a sentencing protective order or continuous
140 protective order under Section 78B-7-804 or a cohabitant abuse protective order or
141 no-fault cohabitant abuse protective order under Section 78B-7-603, the court may order
142 the transfer of a wireless telephone number as provided in this section[;] if:

143 (a) the perpetrator is the account holder for the wireless telephone number;

144 (b) the number is assigned to a telephone that is primarily used by the victim or an
145 individual who will reside with the victim during the time that the protective order or
146 the order of protection is in effect; and

147 (c) the victim requests transfer of the wireless telephone number.

148 (3) An order transferring a wireless telephone number under this section shall:

149 (a) direct a wireless service provider to transfer the rights to, and the billing
150 responsibility for, the wireless telephone number to the victim; and

151 (b) include the wireless telephone number to be transferred, the name of the transferee,
152 and the name of the account holder.

153 (4) A wireless service provider shall comply with an order issued under this section, unless
154 compliance is not reasonably possible due to:

155 (a) the account holder having already terminated the account;

156 (b) differences in network technology that prevent the victim's device from functioning
157 on the network to which the number is to be transferred;

158 (c) geographic or other service availability constraints; or

159 (d) other barriers outside the control of the wireless service provider.

160 (5) A wireless service provider that fails to comply with an order issued under this section
161 shall, within four business days after the day on which the wireless service provider
162 receives the order, provide notice to the victim stating:

163 (a) that the wireless service provider is not able to reasonably comply with the order; and

164 (b) the reason that the wireless service provider is not able to reasonably comply with
165 the order.

166 (6) The victim has full financial responsibility for each wireless telephone number

167 transferred to the victim by an order under this section, beginning on the day on which
168 the wireless telephone number is transferred, including monthly service costs and costs
169 for any mobile device associated with the wireless telephone number.

170 (7) This section does not preclude a wireless service provider from applying standard
171 requirements for account establishment to the victim when transferring financial
172 responsibility under Subsection (6).

173 (8) A wireless service provider, and any officer, employee, or agent of the wireless service
174 provider, is not civilly liable for action taken in compliance with an order issued under
175 this section.

176 Section 3. Section **78B-7-601** is amended to read:

177 **78B-7-601 . Definitions.**

178 As used in this part:

179 (1) "Cohabitant abuse protective order" means an order issued by a court under this part
180 after a hearing on the petition~~[-of]~~ for which the petitioner and respondent have been
181 given notice.

182 (2) "Ex parte cohabitant abuse protective order" means an order issued under this part
183 without notice to the respondent~~[under this part]~~.

184 (3) "No-fault cohabitant abuse protective order" means an order issued under this part by a
185 court, in accordance with Subsection 78B-7-603(4), without a finding by the court that
186 the respondent has committed, or will commit, domestic violence or abuse.

187 [~~3~~] (4) "Protective order" means:

- 188 (a) a cohabitant abuse protective order;~~[-of]~~
189 (b) an ex parte cohabitant abuse protective order~~[-]~~ ; or
190 (c) a no-fault cohabitant abuse protective order.

191 Section 4. Section **78B-7-603** is amended to read:

192 **78B-7-603 . Cohabitant abuse protective orders -- Ex parte cohabitant abuse**
193 **protective orders -- Modification of orders -- Service of process -- Duties of the court.**

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

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

- 201 (b) upon notice, issue a protective order or modify [an] a protective order after a hearing,
202 regardless of whether the respondent appears.
- 203 (2) A court may grant the following relief, without notice [~~in a protective order or a~~
204 ~~modification issued ex parte~~], in an ex parte cohabitant abuse protective order or an ex
205 parte modification of a protective order:
- 206 (a) enjoin the respondent from threatening to commit domestic violence or abuse,
207 committing domestic violence or abuse, or harassing the petitioner or any designated
208 family or household member;
- 209 (b) prohibit the respondent from telephoning, contacting, or otherwise communicating
210 with the petitioner or any designated family or household member, directly or
211 indirectly, with the exception of any parent-time provisions in the ex parte order;
- 212 (c) subject to Subsection (2)(e), prohibit the respondent from being within a specified
213 distance of the petitioner;
- 214 (d) subject to Subsection (2)(e), order that the respondent is excluded from and is to stay
215 away from the following places and their premises:
- 216 (i) the petitioner's residence or any designated family or household member's
217 residence;
- 218 (ii) the petitioner's school or any designated family or household member's school;
- 219 (iii) the petitioner's or any designated family or household member's place of
220 employment;
- 221 (iv) the petitioner's place of worship or any designated family or household member's
222 place of worship; or
- 223 (v) any specified place frequented by the petitioner or any designated family or
224 household member;
- 225 (e) if the petitioner or designated family or household member attends the same school
226 as the respondent, is employed at the same place of employment as the respondent, or
227 attends the same place of worship, the court:
- 228 (i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent
229 from the respondent's school, place of employment, or place of worship; and
- 230 (ii) may enter an order governing the respondent's conduct at the respondent's school,
231 place of employment, or place of worship;
- 232 (f) upon finding that the respondent's use or possession of a weapon may pose a serious
233 threat of harm to the petitioner, prohibit the respondent from purchasing, using, or
234 possessing a firearm or other weapon specified by the court;

- 235 (g) order possession and use of an automobile and other essential personal effects, and
236 direct the appropriate law enforcement officer to accompany the petitioner to the
237 residence of the parties to ensure that the petitioner is safely restored to possession of
238 the residence, automobile, and other essential personal effects, or to supervise the
239 petitioner's or respondent's removal of personal belongings;
- 240 (h) order the respondent to maintain an existing wireless telephone contract or account;
- 241 (i) grant to the petitioner or someone other than the respondent temporary custody of a
242 minor child of the parties;
- 243 (j) order the appointment of an attorney guardian ad litem under Sections 78A-2-703 and
244 78A-2-803;
- 245 (k) prohibit the respondent from physically injuring, threatening to injure, or taking
246 possession of a household animal that is owned or kept by the petitioner;
- 247 (l) prohibit the respondent from physically injuring or threatening to injure a household
248 animal that is owned or kept by the respondent;
- 249 (m) order any further relief that the court considers necessary to provide for the safety
250 and welfare of the petitioner and any designated family or household member; and
- 251 (n) if the petition requests child support or spousal support, at the hearing on the petition
252 order both parties to provide verification of current income, including year-to-date
253 pay stubs or employer statements of year-to-date or other period of earnings, as
254 specified by the court, and complete copies of tax returns from at least the most
255 recent year.
- 256 (3) A court may grant the following relief in a cohabitant abuse protective order or a
257 modification of ~~[an]~~ a cohabitant abuse protective order after notice and hearing,
258 regardless of whether the respondent appears:
- 259 (a) grant the relief described in Subsection (2);~~and]~~
- 260 (b) order the transfer of a wireless telephone number in accordance with Section
261 78B-7-117; and
- 262 ~~[(b)]~~ (c) specify arrangements for parent-time of any minor child by the respondent and
263 require supervision of that parent-time by a third party or deny parent-time if
264 necessary to protect the safety of the petitioner or minor child.
- 265 ~~[(4) In addition to the relief granted under Subsection (3), the court may order the transfer~~
266 ~~of a wireless telephone number in accordance with Section 78B-7-117.]~~
- 267 (4)(a) A court may treat a petition for a protective order as a request for a no-fault
268 cohabitant abuse protective order only if the petitioner and the respondent agree to

- 269 the entry of a no-fault cohabitant abuse protective order and the terms of the order.
- 270 (b)(i) Except as provided in Subsection (4)(b)(ii), the court may grant a no-fault
- 271 cohabitant abuse protective order containing any of the relief described in
- 272 Subsection (2) or (3) to which the parties agree.
- 273 (ii) A court may not issue mutual no-fault cohabitant abuse protective orders to
- 274 opposing parties.
- 275 (c) A court may modify a no-fault cohabitant abuse protective order without holding a
- 276 hearing if the petitioner and the respondent agree to the modification.
- 277 (d) If the petitioner and the respondent fail to agree to a modification of a no-fault
- 278 cohabitant abuse protective order, the court may modify the no-fault cohabitant abuse
- 279 protective order after holding a hearing and providing notice to the parties of the
- 280 hearing.
- 281 (e) For purposes of 18 U.S.C. Sec. 922(g)(8), a no-fault cohabitant abuse protective
- 282 order shall include a finding as to whether the respondent represents a credible threat
- 283 to the physical safety of the petitioner or the petitioner's or respondent's minor child.
- 284 (f)(i) If the court issues a no-fault cohabitant abuse protective order as described in
- 285 this Subsection (4), the no-fault cohabitant abuse protective order may not be
- 286 introduced in a civil or criminal proceeding as evidence that the respondent
- 287 committed domestic violence or abuse.
- 288 (ii) Subsection (4)(f)(i) does not preclude:
- 289 (A) a party from introducing other evidence of domestic violence or abuse in
- 290 another civil proceeding or a criminal proceeding; or
- 291 (B) a court from considering other evidence of abuse and domestic violence in a
- 292 proceeding regarding custody and parent-time of a minor child as described in
- 293 Section 81-9-204.
- 294 (g) Nothing in this Subsection (4) prevents a petitioner from obtaining an ex parte
- 295 cohabitant abuse protective order or a cohabitant abuse protective order under this
- 296 part.
- 297 (5) [Following the cohabitant abuse protective order hearing] Upon issuance of a cohabitant
- 298 abuse protective order or a no-fault cohabitant abuse protective order, the court shall:
- 299 (a) as soon as possible, deliver the order to the county sheriff for service of process;
- 300 (b) make reasonable efforts to ensure that the [cohabitant abuse protective] order is
- 301 understood by the petitioner[;] and the respondent[;] if present;
- 302 (c) transmit electronically, by the end of the next business day after the order is issued, a

- 303 copy of the [~~cohabitant abuse protective~~] order to the local law enforcement agency
304 or agencies designated by the petitioner;
- 305 (d) transmit a copy of the order to the statewide domestic violence network described in
306 Section 78B-7-113; and
- 307 (e) if the individual is a respondent or defendant subject to a court order that meets the
308 qualifications outlined in 18 U.S.C. Sec. 922(g)(8), transmit within 48 hours,
309 excluding Saturdays, Sundays, and legal holidays, a record of the order to the Bureau
310 of Criminal Identification that includes:
- 311 (i) an agency record identifier;
- 312 (ii) the individual's name, sex, race, and date of birth;
- 313 (iii) the issue date, conditions, and expiration date for the protective order; and
- 314 (iv) if available, the individual's social security number, government issued driver
315 license or identification number, alien registration number, government passport
316 number, state identification number, or FBI number.
- 317 (6) Each protective order shall include two separate portions, one for provisions, the
318 violation of which are criminal offenses, and one for provisions, the violation of which
319 are civil offenses, as follows:
- 320 (a) criminal offenses are those under Subsections (2)(a) through (g), and under
321 Subsection (3)(a) as it refers to Subsections (2)(a) through (g); and
- 322 (b) civil offenses are those under Subsections (2)(h) through [~~(h)~~] (n), Subsection (3)(a)
323 as it refers to Subsections (2)(h) through [~~(h)~~] (n), and Subsection [~~(3)(b)~~] (3)(c).
- 324 (7) Child support and spouse support orders issued as part of a protective order are subject
325 to mandatory income withholding under Title 26B, Chapter 9, Part 3, Income
326 Withholding in IV-D Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in
327 Non IV-D Cases, except when the protective order is issued ex parte.
- 328 (8)(a) The county sheriff that receives the order from the court, under Subsection (5),
329 shall provide expedited service for protective orders issued in accordance with this
330 part, and shall transmit verification of service of process, when the order has been
331 served, to the statewide domestic violence network described in Section 78B-7-113.
- 332 (b) This section does not prohibit any law enforcement agency from providing service of
333 process if that law enforcement agency:
- 334 (i) has contact with the respondent and service by that law enforcement agency is
335 possible; or
- 336 (ii) determines that under the circumstances, providing service of process on the

- 337 respondent is in the best interests of the petitioner.
- 338 (9)(a) When [an] a protective order is served on a respondent in a jail or other holding
339 facility, the law enforcement agency managing the facility shall make a reasonable
340 effort to provide notice to the petitioner at the time the respondent is released from
341 incarceration.
- 342 (b) Notification of the petitioner shall consist of a good faith reasonable effort to provide
343 notification, including mailing a copy of the notification to the last-known address of
344 the victim.
- 345 (10) A court may modify or vacate a protective order or any provisions in the protective
346 order after notice and hearing, except that the criminal provisions of a cohabitant abuse
347 protective order or a no-fault cohabitant abuse protective order may not be vacated
348 within two years of issuance unless the petitioner:
- 349 (a) is personally served with notice of the hearing, as provided in the Utah Rules of Civil
350 Procedure, and the petitioner personally appears, in person or through court video
351 conferencing, before the court and gives specific consent to the vacation of the
352 criminal provisions of the cohabitant abuse protective order or no-fault cohabitant
353 abuse protective order; or
- 354 (b) submits a verified affidavit, stating agreement to the vacation of the criminal
355 provisions of the cohabitant abuse protective order or no-fault cohabitant abuse
356 protective order.
- 357 (11) A protective order may be modified without a showing of substantial and material
358 change in circumstances.
- 359 (12) A civil provision of a protective order described in Subsection (6) may be dismissed or
360 modified at any time in a divorce, parentage, custody, or guardianship proceeding that is
361 pending between the parties to the protective order action if:
- 362 (a) the parties stipulate in writing or on the record to dismiss or modify a civil provision
363 of the protective order; or
- 364 (b) the court in the divorce, parentage, custody, or guardianship proceeding finds good
365 cause to dismiss or modify the civil provision.

366 Section 5. **Effective Date.**

367 This bill takes effect on May 7, 2025.