

Part 2 Child Protective Orders

78B-7-201 Definitions.

As used in this chapter:

- (1) "Abuse" means:
 - (a) physical abuse;
 - (b) sexual abuse;
 - (c) any sexual offense described in Title 76, Chapter 5b, Part 2, Sexual Exploitation; or
 - (d) human trafficking of a child for sexual exploitation under Section 76-5-308.5.
- (2) "Child protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.
- (3) "Court" means the district court or juvenile court.
- (4) "Ex parte child protective order" means an order issued without notice to the respondent under this part.
- (5) "Protective order" means:
 - (a) a child protective order; or
 - (b) an ex parte child protective order.
- (6) All other terms have the same meaning as defined in Section 80-1-102.

Amended by Chapter 262, 2021 General Session

78B-7-202 Abuse or danger of abuse -- Child protective orders -- Ex parte child protective orders -- Guardian ad litem -- Referral to division.

- (1)
 - (a) Any interested person may file a petition for a protective order:
 - (i) on behalf of a child who is being abused or is in imminent danger of being abused by any individual; or
 - (ii) on behalf of a child who has been abused by an individual who is not the child's parent, stepparent, guardian, or custodian.
 - (b) Before filing a petition under Subsection (1)(a), the interested person shall make a referral to the division.
- (2) Upon the filing of a petition described in Subsection (1), the clerk of the court shall:
 - (a) review the records of the juvenile court, the district court, and the management information system of the division to find any petitions, orders, or investigations related to the child or the parties to the case;
 - (b) request the records of any law enforcement agency identified by the petitioner as having investigated abuse of the child; and
 - (c) identify and obtain any other background information that may be of assistance to the court.
- (3) If it appears from a petition for a protective order filed under Subsection (1)(a)(i) that the child is being abused or is in imminent danger of being abused, or it appears from a petition for a protective order filed under Subsection (1)(a)(ii) that the child has been abused, the court may:
 - (a) without notice, immediately issue an ex parte child protective order against the respondent if necessary to protect the child; or
 - (b) upon notice to the respondent, issue a child protective order after a hearing in accordance with Subsection 78B-7-203(5).
- (4) The court may appoint an attorney guardian ad litem under Sections 78A-2-703 and 78A-2-803.

- (5) This section does not prohibit a protective order from being issued against a respondent who is a child.

Amended by Chapter 262, 2021 General Session

78B-7-203 Hearings.

- (1)
- (a) If an ex parte child protective order is granted, the court shall schedule a hearing to be held within 21 days after the day on which the court makes the ex parte determination.
 - (b) If an ex parte child protective order is denied, the court, upon the request of the petitioner made within five days after the day on which the court makes the ex parte determination, shall schedule a hearing to be held within 21 days after the day on which the petitioner makes the request.
- (2)
- (a) The petition, ex parte child protective order, and notice of hearing shall be served on the respondent, the child's parent or guardian, and, if appointed, the guardian ad litem.
 - (b) The notice of hearing described in Subsection (2)(a) shall contain:
 - (i) the name and address of the individual to whom the notice is directed;
 - (ii) the date, time, and place of the hearing;
 - (iii) the name of the child on whose behalf a petition is being brought; and
 - (iv) a statement that an individual is entitled to have an attorney present at the hearing.
- (3) The court shall provide an opportunity for any person having relevant knowledge to present evidence or information and may hear statements by counsel.
- (4) An agent of the division served with a subpoena in compliance with the Utah Rules of Civil Procedure shall testify in accordance with the Utah Rules of Evidence.
- (5) The court shall issue a child protective order if the court determines, based on a preponderance of the evidence, that:
- (a) for a petition for a child protective order filed under Subsection 78B-7-202(1)(a)(i), the child is being abused or is in imminent danger of being abused; or
 - (b) for a petition for a protective order filed under Subsection 78B-7-202(1)(a)(ii), the child has been abused and the child protective order is necessary to protect the child.
- (6) Except as provided in Section 80-3-404, a child protective order is not an adjudication of abuse, neglect, or dependency under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings.

Amended by Chapter 159, 2021 General Session

Amended by Chapter 262, 2021 General Session

78B-7-204 Content of orders -- Modification of orders -- Penalties.

- (1) A child protective order or an ex parte child protective order may contain the following provisions the violation of which is a class A misdemeanor under Section 76-5-108:
- (a) enjoin the respondent from threatening to commit or committing abuse of the child;
 - (b) prohibit the respondent from harassing, telephoning, contacting, or otherwise communicating with the child, directly or indirectly;
 - (c) prohibit the respondent from entering or remaining upon the residence, school, or place of employment of the child and the premises of any of these or any specified place frequented by the child;

- (d) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the child, prohibit the respondent from purchasing, using, or possessing a firearm or other specified weapon; and
 - (e) determine ownership and possession of personal property and direct the appropriate law enforcement officer to attend and supervise the petitioner's or respondent's removal of personal property.
- (2) A child protective order or an ex parte child protective order may contain the following provisions the violation of which is contempt of court:
- (a) determine temporary custody of the child who is the subject of the petition;
 - (b) determine parent-time with the child who is the subject of the petition, including denial of parent-time if necessary to protect the safety of the child, and require supervision of parent-time by a third party;
 - (c) determine child support in accordance with Title 81, Chapter 6, Child Support; and
 - (d) order any further relief the court considers necessary to provide for the safety and welfare of the child.
- (3)
- (a) If the child who is the subject of the child protective order attends the same school or place of worship as the respondent, or is employed at the same place of employment as the respondent, the court:
 - (i) may not enter an order under Subsection (1)(c) that excludes the respondent from the respondent's school, place of worship, or place of employment; and
 - (ii) may enter an order governing the respondent's conduct at the respondent's school, place of worship, or place of employment.
 - (b) A violation of an order under Subsection (3)(a) is contempt of court.
- (4)
- (a) A respondent may petition the court to modify or vacate a child protective order after notice and a hearing.
 - (b) At the hearing described in Subsection (4)(a):
 - (i) the respondent shall have the burden of proving by clear and convincing evidence that modification or vacation of the child protective order is in the best interest of the child; and
 - (ii) the court shall consider:
 - (A) the nature and duration of the abuse;
 - (B) the pain and trauma inflicted on the child as a result of the abuse;
 - (C) if the respondent is a parent of the child, any reunification services provided in accordance with Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings; and
 - (D) any other evidence the court finds relevant to the determination of the child's best interests, including recommendations by the other parent or a guardian of the child, or a mental health professional.
 - (c) The child is not required to attend the hearing described in Subsection (4)(a).

Amended by Chapter 366, 2024 General Session

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

- (1) If the court enters an ex parte child protective order or a child protective order, the court shall:
 - (a) make reasonable efforts to ensure that the order is understood by the petitioner and the respondent, if present;
 - (b) as soon as possible transmit the order to the county sheriff for service; and

- (c) by the end of the next business day after the order is entered, transmit electronically a copy of the order to any law enforcement agency designated by the petitioner and to the statewide domestic violence network described in Section 78B-7-113.
- (2) The county sheriff shall serve the order and transmit verification of service to the statewide domestic violence network described in Section 78B-7-113 in an expeditious manner. Any law enforcement agency may serve the order and transmit verification of service to the statewide domestic violence network if the law enforcement agency has contact with the respondent or if service by that law enforcement agency is in the best interests of the child.
- (3) When an order is served on a respondent in a jail, prison, or other holding facility, the law enforcement agency managing the facility shall notify the petitioner of the respondent's release. Notice to the petitioner consists of a prompt, good faith effort to provide notice, including mailing the notice to the petitioner's last-known address.
- (4) Child support orders issued as part of a child protective order are subject to mandatory income withholding under Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases.
- (5)
 - (a) A child protective order issued against a respondent who is a parent, stepparent, guardian, or custodian of the child who is the subject of the order expires 150 days after the day on which the order is issued unless a different date is set by the court.
 - (b) The court may not set a date on which a child protective order described in Subsection (5)(a) expires that is more than 150 days after the day on which the order is issued without a finding of good cause.
 - (c) The court may review and extend the expiration date of a child protective order described in Subsection (5)(a), but may not extend the expiration date more than 150 days after the day on which the order is issued without a finding of good cause.
 - (d) Notwithstanding Subsections (5)(a) through (c), a child protective order is not effective after the day on which the child who is the subject of the order turns 18 years old and the court may not extend the expiration date of a child protective order to a date after the day on which the child who is the subject of the order turns 18 years old.
- (6) A child protective order issued against a respondent who is not a parent, stepparent, guardian, or custodian of the child who is the subject of the order expires on the day on which the child turns 18 years old.

Amended by Chapter 330, 2023 General Session

78B-7-206 Statewide domestic violence network.

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

Renumbered and Amended by Chapter 3, 2008 General Session

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

- (1) The Administrative Office of the Courts shall adopt and make available uniform forms for petitions and orders conforming to this part. The forms shall notify the petitioner that:
 - (a) a knowing falsehood in any statement under oath may subject the petitioner to felony prosecution;

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

Renumbered and Amended by Chapter 3, 2008 General Session