

Effective 7/1/2020

Part 5
Sexual Violence Protective Orders

78B-7-502 Definitions.

As used in this part:

- (1) "Ex parte sexual violence protective order" means an order issued without notice to the respondent under this part.
- (2) "Protective order" means:
 - (a) a sexual violence protective order; or
 - (b) an ex parte sexual violence protective order.
- (3)
 - (a) "Sexual violence" means the commission or the attempt to commit:
 - (i) any sexual offense described in:
 - (A) Title 76, Chapter 5, Part 4, Sexual Offenses; or
 - (B) Title 76, Chapter 5b, Part 2, Sexual Exploitation;
 - (ii) human trafficking for sexual exploitation under Section 76-5-308.1; or
 - (iii) aggravated human trafficking for forced sexual exploitation under Section 76-5-310.
 - (b) "Sexual violence" does not include an offense described in:
 - (i) Section 76-5-417, enticing a minor;
 - (ii) Section 76-5-418, sexual battery;
 - (iii) Section 76-5-419, lewdness;
 - (iv) Section 76-5-420, lewdness involving a child; or
 - (v) Section 76-5b-206, failure to report child sexual abuse material by a computer technician.
- (4) "Sexual violence 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.

Amended by Chapter 173, 2025 General Session

78B-7-503 Sexual violence -- Sexual violence protective orders.

- (1)
 - (a) An individual may seek a protective order under this part if the individual has been subjected to sexual violence and is neither a cohabitant nor a dating partner of the respondent.
 - (b) An individual may not seek a protective order on behalf of a child under this part.
- (2) A petition seeking a sexual violence protective order may not be withdrawn without written order of the court.

Enacted by Chapter 365, 2019 General Session

78B-7-504 Sexual violence protective orders -- Ex parte protective orders -- Modification of orders.

- (1) If it appears from a petition for a protective order or a petition to modify an existing protective order that sexual violence has occurred, the district court may:
 - (a) without notice, immediately issue an ex parte sexual violence protective order against the respondent or modify an existing sexual violence protective order ex parte, if necessary to protect the petitioner or any party named in the petition; or

- (b) upon notice to the respondent, issue a sexual violence protective order or modify a sexual violence protective order after a hearing, regardless of whether the respondent appears.
- (2) The district court may grant the following relief with or without notice in a protective order or in a modification to a protective order:
 - (a) prohibit the respondent from threatening to commit or committing sexual violence against the petitioner and a family or household member designated in the protective order;
 - (b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or a family or household member designated in the protective order, directly or indirectly;
 - (c) order that the respondent:
 - (i) is excluded and shall stay away from the petitioner's residence and its premises;
 - (ii) subject to Subsection (4), stay away from the petitioner's:
 - (A) school and its premises;
 - (B) place of employment and its premises; or
 - (C) place of worship and its premises; or
 - (iii) stay away from any specified place frequented by the petitioner or a family or household member designated in the protective order;
 - (d) prohibit the respondent from being within a specified distance of the petitioner; or
 - (e) order any further relief that the district court considers necessary to provide for the safety and welfare of the petitioner and a family or household member designated in the protective order.
- (3) The district court may grant the following relief in a sexual violence protective order or a modification of a sexual violence protective order, after notice and a hearing, regardless of whether the respondent appears:
 - (a) the relief described in Subsection (2); and
 - (b) subject to Subsection (5), upon finding that the respondent's use or possession of a weapon poses a serious threat of harm to the petitioner or a family or household member designated in the protective order, prohibit the respondent from purchasing, using, or possessing a weapon specified by the district court.
- (4) If the petitioner or a family or household member designated in the protective order attends the same school as the respondent, is employed at the same place of employment as the respondent, or attends the same place of worship as the respondent, the court may enter an order:
 - (a) that excludes the respondent from the respondent's school, place of employment, or place of worship; or
 - (b) governing the respondent's conduct at the respondent's school, place of employment, or place of worship.
- (5) The district court may not prohibit the respondent from possessing a firearm:
 - (a) if the respondent has not been given notice of the petition for a protective order and an opportunity to be heard; and
 - (b) unless the petition establishes:
 - (i) by a preponderance of the evidence that the respondent committed sexual violence against the petitioner; and
 - (ii) by clear and convincing evidence that the respondent's use or possession of a firearm poses a serious threat of harm to the petitioner or a family or household member designated in the protective order.
- (6) After the day on which the district court issues a sexual violence protective order, the district court shall:
 - (a) as soon as possible, deliver the order to the county sheriff for service of process;

- (b) make reasonable efforts at the hearing to ensure that the petitioner and the respondent, if present, understand the sexual violence protective order;
 - (c) transmit electronically, by the end of the business day after the day on which the court issues the order, a copy of the sexual violence protective order to a local law enforcement agency designated by the petitioner; and
 - (d) transmit a copy of the sexual violence protective order in the same manner as described in Section 78B-7-113.
- (7)
- (a) A respondent may request the court modify or vacate a protective order in accordance with Subsection (7)(b).
 - (b) Upon a respondent's request, the district court may modify or vacate a protective order after notice and a hearing, if the petitioner:
 - (i) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and appears before the district court to give specific consent to the modification or vacation of the provisions of the protective order; or
 - (ii) submits an affidavit agreeing to the modification or vacation of the provisions of the protective order.

Amended by Chapter 142, 2020 General Session

78B-7-505 Hearings -- Expiration -- Extension.

- (1)
- (a) The court shall set a date for a hearing on the petition for a sexual violence protective order to be held within 21 days after the day on which the court issues an ex parte protective order.
 - (b) If, at the hearing described in Subsection (1)(a), the court does not issue a sexual violence protective order, the ex parte sexual protective order expires, unless extended by the court.
 - (c) The court may extend the 21-day period described in Subsection (1)(a) only if:
 - (i) a party is unable to be present at the hearing for good cause, established by the party's sworn affidavit;
 - (ii) the respondent has not been served; or
 - (iii) exigent circumstances exist.
 - (d) If, at the hearing described in Subsection (1)(a), the court issues a sexual violence protective order, the ex parte sexual violence protective order remains in effect until service of process of the sexual violence protective order is completed.
 - (e) A sexual violence protective order remains in effect for three years after the day on which the court issues the order.
 - (f) If the hearing described in Subsection (1)(a) is held by a commissioner, the petitioner or respondent may file an objection within 14 calendar days after the day on which the commissioner recommends the order, and, if the petitioner or respondent requests a hearing be held, the assigned judge shall hold a hearing on the objection within 21 days after the day on which the objection is filed.
- (2) If the court denies a petition for an ex parte sexual violence protective order or a petition to modify a sexual violence protective order ex parte, the court shall, upon the petitioner's request made within five days after the day on which the court denies the petition:
- (a) set the matter for hearing to be held within 21 days after the day on which the petitioner makes the request; and
 - (b) notify and serve the respondent.
- (3)

- (a) A sexual violence protective order automatically expires under Subsection (1)(e) unless the petitioner files a motion before the day on which the sexual violence protective order expires requesting an extension of the sexual violence protective order and demonstrates that:
 - (i) there is a substantial likelihood the petitioner will be subjected to sexual violence; or
 - (ii) the respondent committed or was convicted of a violation of the sexual violence protective order that the petitioner requests be extended or a sexual violence offense after the day on which the sexual violence protective order is issued.
- (b)
 - (i) If the court denies the motion described in Subsection (3)(a), the sexual violence protective order expires under Subsection (1)(e).
 - (ii) If the court grants the motion described in Subsection (3)(a), the court shall set a new date on which the sexual violence protective order expires.
 - (iii) A sexual violence protective order that is extended under this Subsection (3), may not be extended for more than three years after the day on which the court issues the order for extension.
- (c) After the day on which the court issues an extension of a sexual violence protective order, the court shall take the action described in Subsection 78B-7-504(6).
- (4) Nothing in this part prohibits a petitioner from seeking another protective order after the day on which the petitioner's protective order expires.

Amended by Chapter 159, 2021 General Session

78B-7-506 Service of process.

- (1)
 - (a) The county sheriff that receives an order from the court under Subsection 78B-7-504(6) or 78B-7-505(3) shall:
 - (i) provide expedited service for the sexual violence protective order; and
 - (ii) after the sexual violence protective order is served, transmit verification of service of process to the statewide network described in Section 78B-7-113.
 - (b) This section does not prohibit another law enforcement agency from providing service of process if the law enforcement agency:
 - (i) has contact with the respondent; or
 - (ii) determines that, under the circumstances, providing service of process on the respondent is in the best interest of the petitioner.
- (2) When a sexual violence protective order is served on a respondent in jail, or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

Enacted by Chapter 365, 2019 General Session

78B-7-508 Penalties.

- (1) A violation of a protective order issued under this part is a class A misdemeanor.
- (2) A petitioner may be subject to criminal prosecution under Title 76, Chapter 8, Part 5, Falsification in Official Matters, for knowingly falsifying any statement or information provided for the purpose of obtaining a protective order.

Amended by Chapter 142, 2020 General Session

78B-7-509 Duties of law enforcement officers -- Notice to victims.

- (1) A law enforcement officer who responds to an allegation of sexual violence shall use all reasonable means to protect the victim and prevent further sexual violence, including:
 - (a) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;
 - (b) making arrangements for the victim and any child to obtain emergency housing or shelter;
 - (c) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and
 - (d) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of the victim and of the remedies and services available to victims of sexual violence, in accordance with Subsection (2).
- (2)
 - (a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this part.
 - (b) The written notice shall also include:
 - (i) a statement that the forms needed in order to obtain a protective order are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and
 - (ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.

Enacted by Chapter 365, 2019 General Session