

**78B-7-404 Dating violence orders -- Ex parte dating violence protective orders --
Modification of orders -- Service of process -- Duties of the court.**

- (1) If it appears from a petition for a protective order or a petition to modify an existing protective order that a dating partner of the petitioner has abused or committed dating violence against the petitioner, the district court may:
 - (a) without notice, immediately issue an ex parte dating violence protective order against the dating partner or modify an existing dating protective order ex parte if necessary to protect the petitioner and all parties named in the petition; or
 - (b) upon notice to the respondent, issue a dating violence protective order or modify a dating violence protective order after a hearing, regardless of whether the respondent appears.
- (2) A district court may grant the following relief without notice in a dating violence protective order or a modification issued ex parte:
 - (a) prohibit the respondent from threatening to commit or committing dating violence or abuse against the petitioner and any designated family or household member described in the protective order;
 - (b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly;
 - (c) order that the respondent:
 - (i) is excluded and shall stay away from the petitioner's residence and its premises;
 - (ii) except as provided in Subsection (4), stay away from the petitioner's:
 - (A) school and the school's premises; and
 - (B) place of employment and its premises; and
 - (iii) stay away from any specified place frequented by the petitioner or any designated family or household member;
 - (d) prohibit the respondent from being within a specified distance of the petitioner; and
 - (e) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member.
- (3) A court may grant the following relief in a dating violence protective order or a modification of a dating violence protective order, after notice and a hearing, regardless of whether the respondent appears:
 - (a) the relief described in Subsection (2); and
 - (b) except as provided in Subsection (5), upon finding that the respondent's use or possession of a weapon poses a serious threat of harm to the petitioner or any designated family or household member, prohibit the respondent from purchasing, using, or possessing a weapon specified by the court.
- (4) If the petitioner or designated family or household member attends the same school as the respondent, or is employed at the same place of employment as the respondent, the district court:
 - (a) may not enter an order under Subsection (2)(c)(ii) that excludes the respondent from the respondent's school or place of employment; and
 - (b) may enter an order governing the respondent's conduct at the respondent's school or place of employment.
- (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 has committed abuse or dating 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 petitioner or the designated family or household member.
- (6) Any protective order issued under this part shall expire 180 days after the day on which the order is issued.
- (7) After the district court issues a dating 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 dating violence protective order is understood by the petitioner and the respondent, if present;
 - (c) transmit electronically, by the end of the business day after the day on which the order is issued, a copy of the dating violence protective order to the local law enforcement agency designated by the petitioner; and
 - (d) transmit a copy of the protective order issued under this part in the same manner as described in Section 78B-7-113.
- (8)
 - (a) The county sheriff that receives the order from the court, pursuant to Subsection (7)(a), shall:
 - (i) provide expedited service for protective orders issued in accordance with this part; and
 - (ii) after the order has been served, transmit verification of service of process to the statewide network described in Section 78B-7-110.
 - (b) This section does not prohibit another law enforcement agency from providing service of process if that law enforcement agency:
 - (i) has contact with the respondent and service by that law enforcement agency is possible; or
 - (ii) determines that, under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.
- (9) When a 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.
- (10) A district court may modify or vacate a protective order under this part after notice and hearing, if the petitioner:
 - (a) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and appears before the court to give specific consent to the modification or vacation of the provisions of the protective order; or
 - (b) submits an affidavit agreeing to the modification or vacation of the provisions of the protective order.
- (11) To the extent that the provisions of this part are more specific than the Utah Rules of Civil Procedure regarding protective orders, the provisions of this part govern.

Enacted by Chapter 179, 2013 General Session