

Effective 5/7/2025

78B-7-603 Cohabitant abuse protective orders -- Ex parte cohabitant abuse 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 a protective order that domestic violence or abuse has occurred, that there is a substantial likelihood domestic violence or abuse will occur, or that a modification of a protective order is required, a court may:
 - (a) without notice, immediately issue an ex parte cohabitant abuse protective order or modify a protective order ex parte as the court considers necessary to protect the petitioner and all parties named to be protected in the petition; or
 - (b) upon notice, issue a protective order or modify a protective order after a hearing, regardless of whether the respondent appears.
- (2) A court may grant the following relief, without notice, in an ex parte cohabitant abuse protective order or an ex parte modification of a protective order:
 - (a) enjoin the respondent from threatening to commit domestic violence or abuse, committing domestic violence or abuse, or harassing the petitioner or any designated family or household member;
 - (b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly, with the exception of any parent-time provisions in the ex parte order;
 - (c) subject to Subsection (2)(e), prohibit the respondent from being within a specified distance of the petitioner;
 - (d) subject to Subsection (2)(e), order that the respondent is excluded from and is to stay away from the following places and their premises:
 - (i) the petitioner's residence or any designated family or household member's residence;
 - (ii) the petitioner's school or any designated family or household member's school;
 - (iii) the petitioner's or any designated family or household member's place of employment;
 - (iv) the petitioner's place of worship or any designated family or household member's place of worship; or
 - (v) any specified place frequented by the petitioner or any designated family or household member;
 - (e) if the petitioner or designated family or household member 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, the court:
 - (i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent from the respondent's school, place of employment, or place of worship; and
 - (ii) may enter an order governing the respondent's conduct at the respondent's school, place of employment, or place of worship;
 - (f) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a firearm or other weapon specified by the court;
 - (g) order possession and use of an automobile and other essential personal effects, and direct the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to possession of the residence, automobile, and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;
 - (h) order the respondent to maintain an existing wireless telephone contract or account;
 - (i) grant to the petitioner or someone other than the respondent temporary custody of a minor child of the parties;

- (j) order the appointment of an attorney guardian ad litem under Sections 78A-2-703 and 78A-2-803;
 - (k) prohibit the respondent from physically injuring, threatening to injure, or taking possession of a household animal that is owned or kept by the petitioner;
 - (l) prohibit the respondent from physically injuring or threatening to injure a household animal that is owned or kept by the respondent;
 - (m) 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; and
 - (n) if the petition requests child support or spousal support, at the hearing on the petition order both parties to provide verification of current income, including year-to-date pay stubs or employer statements of year-to-date or other period of earnings, as specified by the court, and complete copies of tax returns from at least the most recent year.
- (3) A court may grant the following relief in a cohabitant abuse protective order or a modification of a cohabitant abuse protective order after notice and hearing, regardless of whether the respondent appears:
- (a) grant the relief described in Subsection (2);
 - (b) order the transfer of a wireless telephone number in accordance with Section 78B-7-117; and
 - (c) specify arrangements for parent-time of any minor child by the respondent and require supervision of that parent-time by a third party or deny parent-time if necessary to protect the safety of the petitioner or minor child.
- (4)
- (a) 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 entry of a no-fault cohabitant abuse protective order and the terms of the order.
 - (b)
 - (i) Except as provided in Subsection (4)(b)(ii), the court may grant a no-fault cohabitant abuse protective order containing any of the relief described in Subsection (2) or (3) to which the parties agree.
 - (ii) A court may not issue mutual no-fault cohabitant abuse protective orders to opposing parties.
 - (c) A court may modify a no-fault cohabitant abuse protective order without holding a hearing if the petitioner and the respondent agree to the modification.
 - (d) If the petitioner and the respondent fail to agree to a modification of a no-fault cohabitant abuse protective order, the court may modify the no-fault cohabitant abuse protective order after holding a hearing and providing notice to the parties of the hearing.
 - (e) For purposes of 18 U.S.C. Sec. 922(g)(8), a no-fault cohabitant abuse protective order shall include a finding as to whether the respondent represents a credible threat to the physical safety of the petitioner or the petitioner's or respondent's minor child.
 - (f)
 - (i) If the court issues a no-fault cohabitant abuse protective order as described in this Subsection (4), the no-fault cohabitant abuse protective order may not be introduced in a civil or criminal proceeding as evidence that the respondent committed domestic violence or abuse.
 - (ii) Subsection (4)(f)(i) does not preclude:
 - (A) a party from introducing other evidence of domestic violence or abuse in another civil proceeding or a criminal proceeding; or
 - (B) a court from considering other evidence of abuse and domestic violence in a proceeding regarding custody and parent-time of a minor child as described in Section 81-9-204.

- (g) Nothing in this Subsection (4) prevents a petitioner from obtaining an ex parte cohabitant abuse protective order or a cohabitant abuse protective order under this part.
- (5) Upon issuance of a cohabitant abuse protective order or a no-fault cohabitant abuse protective order, the court shall:
 - (a) as soon as possible, deliver the order to the county sheriff for service of process;
 - (b) make reasonable efforts to ensure that the order is understood by the petitioner and the respondent if present;
 - (c) transmit electronically, by the end of the next business day after the order is issued, a copy of the order to the local law enforcement agency or agencies designated by the petitioner;
 - (d) transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113; and
 - (e) if the individual is a respondent or defendant subject to a court order that meets the qualifications outlined in 18 U.S.C. Sec. 922(g)(8), transmit within 48 hours, excluding Saturdays, Sundays, and legal holidays, a record of the order to the Bureau of Criminal Identification that includes:
 - (i) an agency record identifier;
 - (ii) the individual's name, sex, race, and date of birth;
 - (iii) the issue date, conditions, and expiration date for the protective order; and
 - (iv) if available, the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.
- (6) Each protective order shall include two separate portions, one for provisions, the violation of which are criminal offenses, and one for provisions, the violation of which are civil offenses, as follows:
 - (a) criminal offenses are those under Subsections (2)(a) through (g), and under Subsection (3)(a) as it refers to Subsections (2)(a) through (g); and
 - (b) civil offenses are those under Subsections (2)(h) through (n), Subsection (3)(a) as it refers to Subsections (2)(h) through (n), and Subsection (3)(c).
- (7) Child support and spouse support orders issued as part of a 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, except when the protective order is issued ex parte.
- (8)
 - (a) The county sheriff that receives the order from the court, under Subsection (5), shall provide expedited service for protective orders issued in accordance with this part, and shall transmit verification of service of process, when the order has been served, to the statewide domestic violence network described in Section 78B-7-113.
 - (b) This section does not prohibit any 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)
 - (a) When a protective order is served on a respondent in a 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.
 - (b) Notification of the petitioner shall consist of a good faith reasonable effort to provide notification, including mailing a copy of the notification to the last-known address of the victim.

- (10) A court may modify or vacate a protective order or any provisions in the protective order after notice and hearing, except that the criminal provisions of a cohabitant abuse protective order or a no-fault cohabitant abuse protective order may not be vacated within two years of issuance unless the petitioner:
- (a) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and the petitioner personally appears, in person or through court video conferencing, before the court and gives specific consent to the vacation of the criminal provisions of the cohabitant abuse protective order or no-fault cohabitant abuse protective order; or
 - (b) submits a verified affidavit, stating agreement to the vacation of the criminal provisions of the cohabitant abuse protective order or no-fault cohabitant abuse protective order.
- (11) A protective order may be modified without a showing of substantial and material change in circumstances.
- (12) A civil provision of a protective order described in Subsection (6) may be dismissed or modified at any time in a divorce, parentage, custody, or guardianship proceeding that is pending between the parties to the protective order action if:
- (a) the parties stipulate in writing or on the record to dismiss or modify a civil provision of the protective order; or
 - (b) the court in the divorce, parentage, custody, or guardianship proceeding finds good cause to dismiss or modify the civil provision.

Amended by Chapter 332, 2025 General Session