

1 **PROTECTIVE ORDER MODIFICATIONS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Dixon M. Pitcher**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions in the Judicial Code related to child protective orders.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ amends provisions in the Judicial Code related to obtaining an ex parte child
13 protective order or a child protective order concerning a child who has been
14 subjected to abuse; and

15 ▶ amends the definition of "abuse."

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 **AMENDS:**

22 **78B-7-201**, as renumbered and amended by Laws of Utah 2008, Chapter 3

23 **78B-7-202**, as last amended by Laws of Utah 2014, Chapter 267

24 **78B-7-203**, as last amended by Laws of Utah 2010, Chapter 34

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

27 Section 1. Section **78B-7-201** is amended to read:



28 **78B-7-201. Definitions.**

29 As used in this chapter:

30 (1) "Abuse" [~~means physical abuse or sexual abuse~~] means the same as that term is
31 defined in Section 78A-6-105.

32 (2) "Court" means the district court or juvenile court.

33 (3) All other terms [~~have the same meaning as~~] mean the same as those terms are
34 defined in Section 78A-6-105.

35 Section 2. Section **78B-7-202** is amended to read:

36 **78B-7-202. Petition -- Ex parte determination -- Guardian ad litem -- Referral to**
37 **division.**

38 (1) (a) Any interested person may file a petition for a protective order on behalf of a
39 child who has been subjected to abuse, is being abused, or is in imminent danger of being
40 abused.

41 (b) The petitioner shall first make a referral to the division.

42 (2) Upon the filing of a petition, the clerk of the court shall:

43 (a) review the records of the juvenile court, the district court, and the management
44 information system of the division to find any petitions, orders, or investigations related to the
45 child or the parties to the case;

46 (b) request the records of any law enforcement agency identified by the petitioner as
47 having investigated abuse of the child; and

48 (c) identify and obtain any other background information that may be of assistance to
49 the court.

50 (3) (a) Upon the filing of a petition, the court shall immediately determine, based on
51 the evidence and information presented, whether the minor has been subjected to abuse, is
52 being abused, or is in imminent danger of being abused.

53 (b) If [~~so,~~] the court determines that the minor has been subjected to abuse, is being
54 abused, or is in imminent danger of being abused, the court shall enter an ex parte child
55 protective order.

56 (4) The court may appoint an attorney guardian ad litem under Sections 78A-2-703 and
57 78A-6-902.

58 Section 3. Section **78B-7-203** is amended to read:

59 **78B-7-203. Hearing.**

60 (1) (a) If an ex parte order is granted, the court shall schedule a hearing within 20 days
61 after the ex parte determination.

62 (b) If an ex parte order is denied, the court, upon the request of the petitioner, shall
63 schedule a hearing within 20 days after the ex parte determination.

64 (2) The petition, ex parte child protective order, and notice of hearing shall be served
65 on the respondent, the minor's parent or guardian, and, if appointed, the guardian ad litem. The
66 notice shall contain:

67 (a) the name and address of the person to whom it is directed;

68 (b) the date, time, and place of the hearing;

69 (c) the name of the minor on whose behalf a petition is being brought; and

70 (d) a statement that a person is entitled to have an attorney present at the hearing.

71 (3) (a) The court shall provide an opportunity for any person having relevant
72 knowledge to present evidence or information.

73 (b) The court may hear statements by counsel.

74 (4) An agent of the division served with a subpoena in compliance with the Utah Rules
75 of Civil Procedure shall testify in accordance with the Utah Rules of Evidence.

76 (5) (a) If the court determines, based on a preponderance of the evidence, that the
77 minor has been subjected to abuse, is being abused, or is in imminent danger of being abused,
78 the court shall enter a child protective order.

79 (b) With the exception of the provisions of Section [78A-6-323](#), a child protective order
80 does not constitute an adjudication of abuse, neglect, or dependency under Title 78A, Chapter
81 6, Part 3, Abuse, Neglect, and Dependency Proceedings.