

HB0214S02 compared with HB0214

~~{deleted text}~~ shows text that was in HB0214 but was deleted in HB0214S02.

inserted text shows text that was not in HB0214 but was inserted into HB0214S02.

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Representative Dixon M. Pitcher proposes the following substitute bill:

PROTECTIVE ORDER MODIFICATIONS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dixon M. Pitcher

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends ~~{provisions}~~ a definition in the Judicial Code related to child protective orders.

Highlighted Provisions:

This bill:

- ~~{~~ → amends provisions in the Judicial Code related to obtaining an ex parte child protective order or a child protective order concerning a child who has been subjected to abuse; and
- ‡ ▶ amends the definition of "abuse" as it relates to child protective orders. ~~{~~

Money Appropriated in this Bill:

None

Other Special Clauses:

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None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

78B-7-201. Definitions.

As used in this chapter:

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

(b) Notwithstanding Subsection (1)(a), "threatened harm of a child" does not apply to a court's determination of whether a child is in imminent danger of being abused, as described in Subsection 78B-7-203(5).

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

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

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

~~— **78B-7-202. Petition -- Ex parte determination -- Guardian ad litem -- Referral to division:**~~

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

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

~~— (2) Upon the filing of a petition, 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~~

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~~having investigated abuse of the child; and~~

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

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

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

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

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

~~—— **78B-7-203. Hearing.**~~

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

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

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

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

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

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

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

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

~~—— (b) The court 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) (a) If the court determines, based on a preponderance of the evidence, that the minor has been subjected to abuse, is being abused, or is in imminent danger of being abused,~~

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~~the court shall enter a child protective order.~~

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

Legislative Review Note

Office of Legislative Research and General Counsel