

212 Cohabitant Abuse Procedures Act] this chapter;

213 (c) any child protective order or ex parte child protective order issued under Title 78B,
214 Chapter 7, Part 2, Child Protective Orders; or

215 (d) a foreign protection order enforceable under Title 78B, Chapter 7, Part 3, Uniform
216 Interstate Enforcement of Domestic Violence Protection Orders Act.

217 Section 5. Section **77-36-2.6** is amended to read:

218 **77-36-2.6. Appearance of defendant required -- Determinations by court --**
219 **Pretrial protective order.**

220 (1) A defendant who has been arrested for an offense involving domestic violence shall
221 appear in person or by video before the court or a magistrate within one judicial day after the
222 arrest.

223 (2) A defendant who has been charged by citation, indictment, or information with an
224 offense involving domestic violence but has not been arrested, shall appear before the court in
225 person for arraignment or initial appearance as soon as practicable, but no later than 14 days
226 after the next day on which court is in session following the issuance of the citation or the
227 filing of the indictment or information.

228 (3) At the time of an appearance under Subsection (1) or (2), the court shall:

229 (a) determine the necessity of imposing a pretrial protective order or other condition of
230 pretrial release, including~~[, but not limited to,]~~ participating in an electronic or other type of
231 monitoring program~~[, and shall];~~

232 (b) ~~It~~ **→ [determine whether to designate a person that may] identify the individual**
232a **designated by the victim to** ~~It~~ communicate between the
233 defendant and the victim if and to the extent necessary for family related matters; and

234 (c) state its findings and determination in writing.

235 (4) Appearances required by this section are mandatory and may not be waived.

236 Section 6. Section **77-36-5** is amended to read:

237 **77-36-5. Sentencing -- Restricting contact with victim -- Electronic monitoring --**
238 **Counseling -- Cost assessed against defendant -- Sentencing protective order.**

239 (1) (a) When a defendant is found guilty of a crime involving domestic violence and a
240 condition of the sentence restricts the defendant's contact with the victim, a sentencing
241 protective order may be issued under Subsection 77-36-5.1(2) for the length of the defendant's
242 probation or a continuous protective order may be issued under Subsection 77-36-5.1(6).

305 crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of
 306 continued acts of violence subsequent to the release of a perpetrator who is convicted of
 307 domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the
 308 issuance of continuous protective orders under this Subsection (6) because of the need to
 309 provide ongoing protection for the victim and to be consistent with the purposes of protecting
 310 victims' rights under Chapter 37, Victims' Rights, and Chapter 38, Rights of Crime Victims
 311 Act ~~H~~→ , and Article I, Section 28 of the Utah Constitution ←~~H~~ .

312 (b) If a perpetrator is convicted of a domestic violence offense resulting in a sentence
 313 of imprisonment, including jail, that is to be served after conviction, the court shall issue a
 314 continuous protective order at the time of the conviction or sentencing limiting the contact
 315 between the perpetrator and the victim unless the court determines by clear and convincing
 316 evidence that the victim does not have a reasonable fear of future harm or abuse.

317 (c) (i) The court shall notify the perpetrator of the right to request a hearing.

318 (ii) If the perpetrator requests a hearing under this Subsection (6)(c), the court shall
 319 hold the hearing at the time determined by the court. The continuous protective order shall be
 320 in effect while the hearing is being scheduled and while the hearing is pending.

321 (d) A continuous protective order is permanent in accordance with this Subsection
 322 (6)(d) and may grant the following relief:

323 (i) enjoining the perpetrator from threatening to commit or committing acts of
 324 domestic violence against the victim or other family or household member;

325 (ii) prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise
 326 communicating with the victim, directly or indirectly;

327 (iii) prohibiting the perpetrator from going to the victim's residence, school, place of
 328 employment, and the premises of any of these, or a specified place frequented regularly by the
 329 victim or any designated family or other household member;

330 (iv) directing the perpetrator to pay restitution to the victim as may apply, and shall be
 331 enforced in accordance with Chapter 38a, Crime Victims Restitution Act; and

332 (v) any other order the court considers necessary to fully protect the victim and
 333 members of the victim's family or other household member.

334 (e) ~~H~~→ [(f)] ←~~H~~ A continuous protective order may be modified or dismissed ~~H~~→ [only
 334a after the
 335 ~~continuous protective order has been in effect for at least two years and~~] ←~~H~~ only if the court

336 determines by clear and convincing evidence that all requirements of this Subsection (6) have
 337 been met and the victim does not have a reasonable fear of future harm or abuse.

338 ~~Ĥ→ [(ii) The two-year period described in Subsection (6)(c)(i) is tolled for any period of time~~
 339 ~~that the perpetrator is incarcerated.] ←Ĥ~~

340 (f) Notice of a continuous protective order issued pursuant to this section shall be sent
 341 by the court to the statewide domestic violence network.

342 (g) Violation of a continuous protective order issued pursuant to this Subsection (6) is
 343 a class A misdemeanor, is a domestic violence offense under Section 77-36-1, and is subject to
 344 increased penalties in accordance with Section 77-36-1.1.

345 (h) In addition to the process of issuing a continuous protective order described in
 346 Subsection (6)(a), a district court may issue a continuous protective order at any time if the
 347 victim files a petition with the district court, and after notice and hearing the district court finds
 348 that a continuous protective order is necessary to protect the victim.

349 (7) (a) Before release of a person who is subject to a continuous protective order issued
 350 under Subsection (6), the victim shall receive Ĥ→ [reasonable advance] ←Ĥ notice of the imminent
 351 release by the law enforcement agency that is releasing the person who is subject to the
 352 continuous protective order:

353 (i) if the victim has provided the law enforcement agency contact information; Ĥ→ and ←Ĥ

354 (ii) in accordance with Section 64-13-14.7, if applicable Ĥ→ [;] [and]

355 ~~[(iii) including a statement that the person being released is notified of the penalties for~~
 356 ~~violating the continuous protective order] ←Ĥ .~~

357 (b) Before release, the law enforcement agency shall notify in writing the person being
 358 released that a violation of the continuous protective order issued at the time of conviction or
 359 sentencing continues to apply, and that a violation of the continuous protective order is a class
 360 A misdemeanor, is a separate domestic violence offense under Section 77-36-1, and is subject
 361 to increased penalties in accordance with Section 77-36-1.1.

362 Section 8. Section **78B-7-102** is amended to read:

363 **78B-7-102. Definitions.**

364 As used in this chapter:

365 (1) "Abuse" means intentionally or knowingly causing or attempting to cause a
 366 cohabitant physical harm or intentionally or knowingly placing a cohabitant in reasonable fear

491 charges involving violent conduct still on file with the court.

492 (3) The court shall enter sanctions against either party if the court determines that
493 either party acted:

494 (a) in bad faith; or

495 (b) with intent to harass or intimidate either party.

496 (4) Notice of a motion to dismiss a protective order shall be made by personal service
497 on the petitioner in a protective order action as provided in Rules 4 and 5, Utah Rules of Civil
498 Procedure.

499 (5) [~~H~~] Except as provided in Subsection (8), if a divorce proceeding is pending
500 between parties to a protective order action, the protective order shall be dismissed when the
501 court issues a decree of divorce for the parties if:

502 (a) the petitioner in the protective order action is present or has been given notice in
503 both the divorce and protective order action of the hearing; and

504 (b) the court specifically finds that the order need not continue, and, as provided in
505 Subsection (1), the petitioner no longer has a reasonable fear of future harm or abuse.

506 (6) (a) Notwithstanding Subsection (1) or (2) ~~H~~→ **and subject to Subsection (8)** ←~~H~~ , a
506a protective order that has been entered
507 under this chapter concerning a petitioner and a respondent who are divorced shall
508 automatically expire, subject to Subsections (6)(b) and (c), 10 years from the day on which one
509 of the following occurs:

510 (i) the decree of divorce between the petitioner and respondent became absolute; or

511 (ii) the protective order was entered.

512 (b) The protective order shall automatically expire, as described in Subsection (6)(a),
513 unless:

514 (i) the petitioner demonstrates that the petitioner has a reasonable fear of future harm or
515 abuse, as described in Subsection (1); or

516 (ii) the respondent has been convicted of a protective order violation or any crime of
517 violence subsequent to the issuance of the protective order.

518 (c) The 10 years described in Subsection (6)(a) is tolled for any period of time that the
519 respondent is incarcerated.

520 (7) When the court dismisses a protective order, the court shall immediately:

521 (a) issue an order of dismissal to be filed in the protective order action; and