

**DOMESTIC VIOLENCE RESPONSE AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Robert M. Spendlove**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill amends provisions of the Utah Code relating to domestic violence.

**Highlighted Provisions:**

This bill:

- ▶ provides that assault is a class A misdemeanor when committed against an individual's cohabitant or dating partner;
- ▶ provides that violation of a dating violence protective order is a class A misdemeanor;
- ▶ provides a penalty enhancement for a third degree felony domestic violence offense committed within five years after a previous domestic violence offense;
- ▶ provides that a second or subsequent violation of a jail release agreement or jail release court order is subject to penalty enhancements;
- ▶ provides that a court may require a defendant ordered to participate in electronic monitoring for a domestic violence offense to pay the cost of the monitoring if the defendant is able; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53-10-403**, as last amended by Laws of Utah 2017, Chapter 289

31 **76-5-102**, as last amended by Laws of Utah 2015, Chapter 430

32 **77-20-3.5**, as renumbered and amended by Laws of Utah 2017, Chapter 289

33 **77-36-1.1**, as last amended by Laws of Utah 2015, Chapter 426

34 **77-36-2.6**, as last amended by Laws of Utah 2017, Chapter 332

35 **77-36-5**, as last amended by Laws of Utah 2017, Chapter 332

36 **78B-7-406**, as enacted by Laws of Utah 2013, Chapter 179

37 **78B-7-407**, as enacted by Laws of Utah 2013, Chapter 179



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

40 Section 1. Section **53-10-403** is amended to read:

41 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

42 (1) Sections **53-10-404**, **53-10-404.5**, **53-10-405**, and **53-10-406** apply to any person

43 who:

44 (a) has pled guilty to or has been convicted of any of the offenses under Subsection

45 (2)(a) or (b) on or after July 1, 2002;

46 (b) has pled guilty to or has been convicted by any other state or by the United States  
47 government of an offense which if committed in this state would be punishable as one or more  
48 of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

49 (c) has been booked on or after January 1, 2011, through December 31, 2014, for any  
50 offense under Subsection (2)(c);

51 (d) has been booked:

52 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,  
53 2014, through December 31, 2014, under Subsection **53-10-404(4)(b)** for any felony offense; or

54 (ii) on or after January 1, 2015, for any felony offense; or

55 (e) is a minor under Subsection (3).

56 (2) Offenses referred to in Subsection (1) are:

57 (a) any felony or class A misdemeanor under the Utah Code;

58 (b) any offense under Subsection (2)(a):

- 59 (i) for which the court enters a judgment for conviction to a lower degree of offense  
60 under Section 76-3-402; or
- 61 (ii) regarding which the court allows the defendant to enter a plea in abeyance as  
62 defined in Section 77-2a-1; or
- 63 (c) (i) any violent felony as defined in Section 53-10-403.5;  
64 (ii) sale or use of body parts, Section 26-28-116;  
65 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;  
66 (iv) driving with any amount of a controlled substance in a person's body and causing  
67 serious bodily injury or death, Subsection 58-37-8(2)(g);  
68 (v) a felony violation of enticing a minor over the Internet, Section 76-4-401;  
69 (vi) a felony violation of propelling a substance or object at a correctional officer, a  
70 peace officer, or an employee or a volunteer, including health care providers, Section  
71 76-5-102.6;
- 72 (vii) aggravated human trafficking and aggravated human smuggling, Section  
73 76-5-310;
- 74 (viii) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;  
75 (ix) a felony violation of sexual abuse of a minor, Section 76-5-401.1;  
76 (x) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;  
77 (xi) sale of a child, Section 76-7-203;  
78 (xii) aggravated escape, Subsection 76-8-309(2);  
79 (xiii) a felony violation of assault on an elected official, Section 76-8-315;  
80 (xiv) influencing, impeding, or retaliating against a judge or member of the Board of  
81 Pardons and Parole, Section 76-8-316;
- 82 (xv) advocating criminal syndicalism or sabotage, Section 76-8-902;  
83 (xvi) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;  
84 (xvii) a felony violation of sexual battery, Section 76-9-702.1;  
85 (xviii) a felony violation of lewdness involving a child, Section 76-9-702.5;  
86 (xix) a felony violation of abuse or desecration of a dead human body, Section  
87 76-9-704;
- 88 (xx) manufacture, possession, sale, or use of a weapon of mass destruction, Section  
89 76-10-402;

90 (xxi) manufacture, possession, sale, or use of a hoax weapon of mass destruction,  
91 Section 76-10-403;

92 (xxii) possession of a concealed firearm in the commission of a violent felony,  
93 Subsection 76-10-504(4);

94 (xxiii) assault with the intent to commit bus hijacking with a dangerous weapon,  
95 Subsection 76-10-1504(3);

96 (xxiv) commercial obstruction, Subsection 76-10-2402(2);

97 (xxv) a felony violation of failure to register as a sex or kidnap offender, Section  
98 77-41-107;

99 (xxvi) repeat violation of a protective order, Subsection 77-36-1.1(2)(c) or (d); or

100 (xxvii) violation of condition for release after arrest under Section 77-20-3.5.

101 (3) A minor under Subsection (1) is a minor 14 years of age or older whom a Utah  
102 court has adjudicated to be within the jurisdiction of the juvenile court due to the commission  
103 of any offense described in Subsection (2), and who is:

104 (a) within the jurisdiction of the juvenile court on or after July 1, 2002 for an offense  
105 under Subsection (2); or

106 (b) in the legal custody of the Division of Juvenile Justice Services on or after July 1,  
107 2002 for an offense under Subsection (2).

108 Section 2. Section 76-5-102 is amended to read:

109 **76-5-102. Assault -- Penalties.**

110 (1) Assault is:

111 (a) an attempt, with unlawful force or violence, to do bodily injury to another; or

112 (b) an act, committed with unlawful force or violence, that causes bodily injury to  
113 another or creates a substantial risk of bodily injury to another.

114 (2) Assault is a class B misdemeanor.

115 (3) Assault is a class A misdemeanor if:

116 (a) the [person] individual causes substantial bodily injury to another; [or]

117 (b) the victim is pregnant and the [person] individual has knowledge of the  
118 pregnancy[-]; or

119 (c) the individual causes bodily injury to the individual's:

120 (i) cohabitant as defined in Section 78B-7-102; or

121 (ii) dating partner as defined in Section 78B-7-402.

122 (4) It is not a defense against assault, that the accused caused serious bodily injury to  
123 another.

124 Section 3. Section 77-20-3.5 is amended to read:

125 **77-20-3.5. Conditions for release after arrest for domestic violence and other**  
126 **offenses -- Jail release agreements -- Jail release court orders.**

127 (1) As used in this section:

128 (a) "Domestic violence" means the same as that term is defined in Section 77-36-1.

129 (b) "Jail release agreement" means a written agreement described in Subsection  
130 77-20-3.5(3) that:

131 (i) limits the contact an individual arrested for a qualifying offense may have with an  
132 alleged victim; and

133 (ii) specifies other conditions of release from jail.

134 (c) "Jail release court order" means a written court order issued in accordance with  
135 Subsection 77-20-3.5(3) that:

136 (i) limits the contact an individual arrested for a qualifying offense may have with an  
137 alleged victim; and

138 (ii) specifies other conditions of release from jail.

139 (d) "Minor" means an unemancipated individual who is younger than 18 years of age.

140 (e) "Offense against a child or vulnerable adult" means the commission or attempted  
141 commission of an offense described in Section 76-5-109, 76-5-109.1, 76-5-110, or 76-5-111.

142 (f) "Qualifying offense" means:

143 (i) domestic violence;

144 (ii) an offense against a child or vulnerable adult; or

145 (iii) the commission or attempted commission of an offense described in Title 76,  
146 Chapter 5, Part 4, Sexual Offenses.

147 (2) (a) Upon arrest for a qualifying offense and before the ~~[person]~~ individual is  
148 released on bail, recognizance, or otherwise, the ~~[person]~~ individual may not personally contact  
149 the alleged victim.

150 (b) ~~[A person]~~ An individual who violates Subsection (2)(a) is guilty of a class B  
151 misdemeanor.

152 (3) (a) After [~~a person~~] an individual is arrested for a qualifying offense, the [~~person~~]  
153 individual may not be released before:

154 (i) the matter is submitted to a magistrate in accordance with Section 77-7-23; or

155 (ii) the [~~person~~] individual signs a jail release agreement in accordance with Subsection  
156 (3)(d)(i).

157 (b) The arresting officer shall ensure that the information presented to the magistrate  
158 includes whether the alleged victim has made a waiver described in Subsection (6)(a).

159 (c) If the magistrate determines there is probable cause to support the charge or charges  
160 of one or more qualifying offenses, the magistrate shall determine:

161 (i) whether grounds exist to hold the arrested person without bail, in accordance with  
162 Section 77-20-1;

163 (ii) if no grounds exist to hold the arrested [~~person~~] individual without bail, whether  
164 any release conditions, including electronic monitoring, are necessary to protect the alleged  
165 victim; or

166 (iii) any bail that is required to guarantee the arrested [~~person's~~] individual's subsequent  
167 appearance in court.

168 (d) (i) The magistrate may not release [~~a person~~] an individual arrested for a qualifying  
169 offense before the [~~person's~~] individual's initial court appearance before the court with  
170 jurisdiction over the offense for which the [~~person~~] individual was arrested, unless the arrested  
171 [~~person~~] individual agrees in writing or the magistrate orders, as a release condition, that, until  
172 the arrested [~~person~~] individual appears at the initial court appearance, the arrested [~~person~~]  
173 individual will not:

174 (A) have personal contact with the alleged victim;

175 (B) threaten or harass the alleged victim; or

176 (C) knowingly enter onto the premises of the alleged victim's residence or any premises  
177 temporarily occupied by the alleged victim.

178 (ii) The magistrate shall schedule the appearance described in Subsection (3)(d)(i) to  
179 take place no more than 96 hours after the time of the arrest.

180 (iii) The arrested [~~person~~] individual may make the appearance described in Subsection  
181 (3)(d)(i) by video if the arrested [~~person~~] individual is not released.

182 (4) (a) If [~~a person~~] an individual charged with a qualifying offense fails to appear at

183 the time scheduled by the magistrate under Subsection (3)(d), the ~~[person]~~ individual shall  
184 comply with the release conditions described in Subsection (3)(d)(i) until the ~~[person]~~  
185 individual makes an initial appearance.

186 (b) If the prosecutor has not filed charges against ~~a person~~ an individual who was  
187 arrested for a qualifying offense and who appears in court at the time scheduled by the  
188 magistrate under Subsection (3)(d), or by the court under Subsection (4)(b)(ii), the court:

189 (i) may, upon the motion of the prosecutor and after allowing the ~~[person]~~ individual  
190 an opportunity to be heard on the motion, extend the release conditions described in Subsection  
191 (3)(d)(i) by no more than three court days; and

192 (ii) if the court grants the motion described in Subsection (4)(b)(i), shall order the  
193 arrested ~~[person]~~ individual to appear at a time scheduled before the end of the granted  
194 extension.

195 (5) Except as provided in Subsection (4) or otherwise ordered by a court, a jail release  
196 agreement or jail release court order expires at midnight after the arrested ~~[person's]~~  
197 individual's initial scheduled court appearance described in Subsection (3)(d)(i).

198 (6) (a) After an arrest for a qualifying offense, an alleged victim who is not a minor  
199 may waive in writing the release conditions described in Subsection (3)(d)(i)(A) or (C). Upon  
200 waiver, those release conditions do not apply to the arrested ~~[person]~~ individual.

201 (b) A court or magistrate may modify the release conditions described in Subsection  
202 (3)(d)(i), in writing or on the record, and only for good cause shown.

203 (7) (a) When an arrested ~~[person]~~ individual is released in accordance with Subsection  
204 (3), the releasing agency shall:

205 (i) notify the arresting law enforcement agency of the release, conditions of release, and  
206 any available information concerning the location of the alleged victim;

207 (ii) make a reasonable effort to notify the alleged victim of the release; and

208 (iii) before releasing the arrested ~~[person]~~ individual, give the arrested ~~[person]~~  
209 individual a copy of the jail release agreement or the jail release court order.

210 (b) (i) When ~~a person~~ an individual arrested for domestic violence is released  
211 ~~[pursuant to]~~ under Subsection (3) based on a written jail release agreement, the releasing  
212 agency shall transmit that information to the statewide domestic violence network described in  
213 Section [78B-7-113](#).

214 (ii) When [~~a person~~] an individual arrested for domestic violence is released [~~pursuant~~  
215 ~~to~~] under Subsections (3) through (5) based upon a jail release court order or if a written jail  
216 release agreement is modified [~~pursuant to~~] under Subsection (6)(b), the court shall transmit  
217 that order to the statewide domestic violence network described in Section [78B-7-113](#).

218 (c) This Subsection (7) does not create or increase liability of a law enforcement officer  
219 or agency, and the good faith immunity provided by Section [77-36-8](#) is applicable.

220 (8) (a) If a law enforcement officer has probable cause to believe that [~~a person~~] an  
221 individual has violated a jail release agreement or jail release court order, the officer shall,  
222 without a warrant, arrest the [~~person~~] individual.

223 (b) [~~Any person~~] An individual who knowingly violates a jail release court order or jail  
224 release agreement executed [~~pursuant to~~] under Subsection (3) is guilty as follows:

225 (i) if the original arrest was for a felony, an offense under this section is a third degree  
226 felony; or

227 (ii) if the original arrest was for a misdemeanor, an offense under this section is a class  
228 A misdemeanor.

229 (c) An individual who knowingly commits a second or subsequent violation of a jail  
230 release court order or jail release agreement executed under Subsection (3) is subject to  
231 increased penalties in accordance with Section [77-36-1.1](#).

232 [~~(c)~~] (d) City attorneys may prosecute class A misdemeanor violations under this  
233 section.

234 (9) [~~A person~~] An individual who is arrested for a qualifying offense that is a felony  
235 and released in accordance with this section may subsequently be held without bail if there is  
236 substantial evidence to support a new felony charge against the [~~person~~] individual.

237 (10) At the time an arrest is made for a qualifying offense, the arresting officer shall  
238 provide the alleged victim with written notice containing:

239 (a) the release conditions described in Subsections (3) through (5), and notice that the  
240 alleged perpetrator will not be released, before appearing before the court with jurisdiction over  
241 the offense for which the alleged perpetrator was arrested, unless:

242 (i) the alleged perpetrator enters into a written agreement to comply with the release  
243 conditions; or

244 (ii) the magistrate orders the release conditions;



245 (b) notification of the penalties for violation of any jail release agreement or jail release  
246 court order;

247 (c) notification that the alleged perpetrator is to personally appear in court on the next  
248 day the court is open for business after the day of the arrest;

249 (d) the address of the appropriate court in the district or county in which the alleged  
250 victim resides;

251 (e) the availability and effect of any waiver of the release conditions; and

252 (f) information regarding the availability of and procedures for obtaining civil and  
253 criminal protective orders with or without the assistance of an attorney.

254 (11) At the time an arrest is made for a qualifying offense, the arresting officer shall  
255 provide the alleged perpetrator with written notice containing:

256 (a) notification that the alleged perpetrator may not contact the alleged victim before  
257 being released;

258 (b) the release conditions described in Subsections (3) through (5) and notice that the  
259 alleged perpetrator will not be released, before appearing before the court with jurisdiction over  
260 the offense for which the alleged perpetrator was arrested, unless:

261 (i) the alleged perpetrator enters into a written agreement to comply with the release  
262 conditions; or

263 (ii) the magistrate orders the release conditions;

264 (c) notification of the penalties for violation of any jail release agreement or jail release  
265 court order; and

266 (d) notification that the alleged perpetrator is to personally appear in court on the next  
267 day the court is open for business after the day of the arrest.

268 (12) (a) A pretrial or sentencing protective order [~~supercedes~~] supersedes a jail release  
269 agreement or jail release court order.

270 (b) If a court dismisses the charges for the qualifying offense that gave rise to a jail  
271 release agreement or jail release court order, the court shall dismiss the jail release agreement  
272 or jail release court order.

273 (13) In addition to the provisions of Subsections (3) through (12), because of the  
274 unique and highly emotional nature of domestic violence crimes, the high recidivism rate of  
275 violent offenders, and the demonstrated increased risk of continued acts of violence subsequent

276 to the release of an offender who has been arrested for domestic violence, it is the finding of  
277 the Legislature that domestic violence crimes, as defined in Section 77-36-1, are crimes for  
278 which bail may be denied if there is substantial evidence to support the charge, and if the court  
279 finds by clear and convincing evidence that the alleged perpetrator would constitute a  
280 substantial danger to an alleged victim of domestic violence if released on bail.

281 (14) The provisions of this section do not apply if the [person] individual arrested for  
282 the qualifying offense is a minor, unless the qualifying offense is domestic violence.

283 Section 4. Section 77-36-1.1 is amended to read:

284 **77-36-1.1. Enhancement of offense and penalty for subsequent domestic violence**  
285 **offenses.**

286 (1) For purposes of this section, "qualifying domestic violence offense" means:

287 (a) a domestic violence offense in Utah; ~~[or]~~

288 (b) a violation of a jail release court order or jail release agreement executed under  
289 Subsection 77-20-3.5(3); or

290 ~~[(b)]~~ (c) an offense in any other state, or in any district, possession, or territory of the  
291 United States, that would be a domestic violence offense under Utah law.

292 (2) ~~[A person]~~ An individual who is convicted of a domestic violence offense is:

293 (a) guilty of a class B misdemeanor if:

294 (i) the domestic violence offense described in this Subsection (2) is designated by law  
295 as a class C misdemeanor; and

296 (ii) (A) the domestic violence offense described in this Subsection (2) is committed  
297 within five years after the [person] day on which the individual is convicted of a qualifying  
298 domestic violence offense; or

299 (B) the [person] individual is convicted of the domestic violence offense described in  
300 this Subsection (2) within five years after the [person] day on which the individual is convicted  
301 of a qualifying domestic violence offense;

302 (b) guilty of a class A misdemeanor if:

303 (i) the domestic violence offense described in this Subsection (2) is designated by law  
304 as a class B misdemeanor; and

305 (ii) (A) the domestic violence offense described in this Subsection (2) is committed  
306 within five years after the [person] day on which the individual is convicted of a qualifying

307 domestic violence offense; or

308 (B) the [person] individual is convicted of the domestic violence offense described in  
309 this Subsection (2) within five years after the [person] day on which the individual is convicted  
310 of a qualifying domestic violence offense; ~~[or]~~

311 (c) guilty of a felony of the third degree if:

312 (i) the domestic violence offense described in this Subsection (2) is designated by law  
313 as a class A misdemeanor; and

314 (ii) (A) the domestic violence offense described in this Subsection (2) is committed  
315 within five years after the [person] day on which the individual is convicted of a qualifying  
316 domestic violence offense; or

317 (B) the [person] individual is convicted of the domestic violence offense described in  
318 this Subsection (2) within five years after the [person] day on which the individual is convicted  
319 of a qualifying domestic violence offense~~[-]; or~~

320 (d) guilty of a felony of the second degree if:

321 (i) the domestic violence offense described in this Subsection (2) is designated by law  
322 as a third degree felony; and

323 (ii) (A) the domestic violence offense described in this Subsection (2) is committed  
324 within five years after the day on which the individual is convicted of a qualifying domestic  
325 violence offense; or

326 (B) the individual is convicted of the domestic violence offense described in this  
327 Subsection (2) within five years after the day on which the individual is convicted of a  
328 qualifying domestic violence offense.

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

330 **77-36-2.6. Appearance of defendant required -- Determinations by court --**

331 **Pretrial protective order.**

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

335 (2) A defendant who has been charged by citation, indictment, or information with an  
336 offense involving domestic violence but has not been arrested, shall appear before the court in  
337 person for arraignment or initial appearance as soon as practicable, but no later than 14 days

338 after the next day on which court is in session following the issuance of the citation or the  
339 filing of the indictment or information.

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

341 (a) determine the necessity of imposing a pretrial protective order or other condition of  
342 pretrial release, including participating in an electronic or other type of monitoring program in  
343 accordance with Subsection 77-36-5(2)(b);

344 (b) identify the individual designated by the victim to communicate between the  
345 defendant and the victim if and to the extent necessary for family related matters; and

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

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

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

349 **77-36-5. Sentencing -- Restricting contact with victim -- Electronic monitoring --**  
350 **Counseling -- Cost assessed against defendant -- Sentencing protective order --**  
351 **Continuous protective order.**

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

356 (b) (i) The sentencing protective order or continuous protective order shall be in  
357 writing, and the prosecutor shall provide a certified copy of that order to the victim.

358 (ii) The court shall transmit the sentencing protective order or continuous protective  
359 order to the statewide domestic violence network.

360 (c) Violation of a sentencing protective order or continuous protective order issued  
361 [~~pursuant to this~~] under Subsection (1) is a class A misdemeanor.

362 (2) (a) In determining its sentence, the court, in addition to penalties otherwise  
363 provided by law, may require the defendant to participate in an electronic or other type of  
364 monitoring program.

365 (b) The court shall order the defendant to pay the costs of the electronic or other type of  
366 monitoring program according to the defendant's ability to pay.

367 (3) The court may also require the defendant to pay all or part of the costs of  
368 counseling incurred by the victim and any children affected by or exposed to the domestic

369 violence offense, as well as the costs for the defendant's own counseling.

370 (4) The court shall:

371 (a) assess against the defendant, as restitution, any costs for services or treatment  
372 provided to the victim and affected children of the victim or the defendant by the Division of  
373 Child and Family Services under Section 62A-4a-106; and

374 (b) order those costs to be paid directly to the division or its contracted provider.

375 (5) The court may order the defendant to obtain and satisfactorily complete treatment  
376 or therapy in a domestic violence treatment program, as defined in Section 62A-2-101, that is  
377 licensed by the Department of Human Services.

378 Section 7. Section 78B-7-406 is amended to read:

379 **78B-7-406. Fees -- Service of process.**

380 (1) Protective orders issued under this part shall be served by the sheriff's office,  
381 constable's office, or any law enforcement agency or peace officer, in accordance with  
382 Subsection 78B-7-404(8).

383 (2) Fees may not be imposed by a court clerk, sheriff, constable, or law enforcement  
384 agency for:

385 (a) filing a petition under this part;

386 (b) obtaining a protective order under this part; or

387 (c) service of a protective order issued under this part.

388 (3) (a) The offices of the court clerk shall provide forms and nonlegal assistance to an  
389 individual seeking to proceed under this part.

390 (b) The Administrative Office of the Courts shall:

391 (i) develop and adopt uniform forms for petitions and orders for protection in  
392 accordance with the provisions of this chapter; and

393 (ii) provide the forms described in Subsection (3)(b)(i) to the clerk of each court  
394 authorized to issue protective orders.

395 (c) The forms described in Subsection (3)(b)(i) shall include:

396 (i) a statement notifying the petitioner for an ex parte dating violence protective order  
397 that knowing falsification of any statement or information provided for the purpose of  
398 obtaining a protective order may subject the petitioner to felony prosecution;

399 (ii) language stating [~~violating~~] violation of any criminal provision is a class [B] A

400 misdemeanor; and

401 (iii) a space for any information the petitioner is able to provide to facilitate  
402 identification of the respondent, including Social Security number, driver license number, date  
403 of birth, address, telephone number, and physical description.

404 (4) If the individual seeking to proceed under this chapter is not represented by an  
405 attorney, it is the responsibility of the court clerk's office to provide:

406 (a) the forms adopted pursuant to Subsection (3);

407 (b) all other forms required to petition for an order for protection, including forms for  
408 service;

409 (c) except for as provided by Subsection (5), clerical assistance in filling out the forms  
410 and filing the petition, in accordance with Subsection (3)(a);

411 (d) information regarding the means available for the service of process;

412 (e) a list of legal service organizations that may represent the petitioner in an action  
413 brought under this part, with the phone numbers of those organizations; and

414 (f) written information regarding the procedure for transporting a jailed or imprisoned  
415 respondent to the protective order hearing, including an explanation for the use of  
416 transportation order forms when necessary.

417 (5) A court clerk's office may designate any other entity, agency, or individual to  
418 provide the service described in Subsection (4)(c), but the court clerk's office is responsible to  
419 see that the service is provided.

420 (6) A petition for a dating violence protective order or ex parte dating violence  
421 protective order shall be in writing and verified.

422 (7) (a) All protective orders issued under this part shall be issued in the form adopted  
423 by the Administrative Office of the Courts under Subsection (3)(b).

424 (b) Each protective order issued under this part, except orders issued ex parte, shall  
425 include the following language:

426 "Respondent was afforded both notice and opportunity to be heard in the hearing that  
427 gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322,  
428 108 Stat. 1796, 18 U.S.C.A. 2265, this order is valid in all the United States, the District of  
429 Columbia, tribal lands, and United States territories. This order complies with the Uniform  
430 Interstate Enforcement of Domestic Violence Protection Orders Act."

431 Section 8. Section **78B-7-407** is amended to read:

432 **78B-7-407. Enforcement.**

433 (1) A law enforcement officer shall, without a warrant, arrest [~~a person~~] an individual  
434 if the officer has probable cause to believe that [~~the person~~] the individual has intentionally or  
435 knowingly violated a protective order issued under this part, regardless of whether the violation  
436 occurred in the presence of the officer.

437 (2) A violation of a protective order issued under this part constitutes a class [~~B~~] A  
438 misdemeanor.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**