

Representative Angela Romero proposes the following substitute bill:

~~H→~~[DOMESTIC] RELATIONSHIP ~~←H~~ VIOLENCE

~~H→~~ [~~,- DATING VIOLENCE,-~~] ~~←H~~ AND

~~H→~~ [STALKING] OFFENSE ~~←H~~ AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Angela Romero

LONG TITLE

General Description:

This bill modifies provisions related to domestic violence, dating violence, and stalking.

Highlighted Provisions:

This bill:

- ▶ modifies definition of "crime victim" as it relates to dating violence;
- ▶ addresses violation of specified protective orders;
- ▶ modifies definitions;
- ▶ amends provisions for forms of petitions and protective orders;
- ▶ addresses duties of law enforcement officers;
- ▶ addresses when and how a court may act ex parte;
- ▶ modifies provisions related to mutual protective orders or stalking injunctions;
- ▶ amends continuing duty to inform court of other proceedings;
- ▶ addresses dismissal or expiration of protective orders; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None



1st Sub. S.B. 27

274 issued, is guilty of a class A misdemeanor, except as a greater penalty may be provided in Title
 275 77, Chapter 36, Cohabitant Abuse Procedures Act:

276 (a) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act;

277 (b) Title 78A, Chapter 6, Juvenile Court Act;

278 (c) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or

279 (d) a foreign protection order enforceable under Title 78B, Chapter 7, Part 3, Uniform

280 Interstate Enforcement of Domestic Violence Protection Orders Act~~[, who intentionally or~~

281 ~~knowingly violates that order after having been properly served, is guilty of a class A~~

282 ~~misdemeanor, except as a greater penalty may be provided in Title 77, Chapter 36, Cohabitant~~

283 ~~Abuse Procedures Act].~~

284 (2) Violation of an order as described in Subsection (1) is a domestic violence offense
 285 under Section 77-36-1 and subject to increased penalties in accordance with Section 77-36-1.1.

286 Section 4. Section **77-3a-101.1** is enacted to read:

287 **77-3a-101.1. Mutual civil stalking injunctions.**

288 (1) A court may not grant a mutual order or mutual civil stalking injunction to
 289 opposing parties, unless each party:

290 (a) files an independent petition against the other for a civil stalking injunction, and
 291 both petitions are served;

292 (b) makes a showing at an evidentiary hearing on the civil stalking injunction that
 293 stalking has occurred by the other party; and

294 (c) demonstrates the alleged act did not occur in self-defense.

295 (2) If the court issues mutual civil stalking injunctions, the court shall include specific
 296 findings of all elements of Subsection (1) in the court order justifying the entry of the court
 297 orders.

298 (3) A court may not grant a civil stalking injunction to a civil petitioner who is the
 299 respondent or defendant subject to a civil stalking injunction, protective order, child protective
 300 order, ~~H→~~ or ~~←H~~ ex parte child protective order:

301 (a) issued under:

302 (i) Chapter 3a, Stalking Injunctions;

303 (ii) a foreign protection order enforceable under ~~H→~~ Title 78B, ~~←H~~ Chapter 7, Part 3,

303a Uniform Interstate

304 Enforcement of Domestic Violence Protection Orders Act;

- 336 (i) stalking, as described in Section 76-5-106.5;
- 337 (j) unlawful detention or unlawful detention of a minor, as described in Section
- 338 76-5-304;
- 339 (k) violation of a protective order or ex parte protective order, as described in Section
- 340 76-5-108;
- 341 (l) any offense against property described in Title 76, Chapter 6, Part 1, Property
- 342 Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6,
- 343 Part 3, Robbery;
- 344 (m) possession of a deadly weapon with criminal intent [~~to assault~~], as described in
- 345 Section 76-10-507;
- 346 (n) discharge of a firearm from a vehicle, near a highway, or in the direction of any
- 347 person, building, or vehicle, as described in Section 76-10-508;
- 348 (o) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly
- 349 conduct is the result of a plea agreement in which the defendant was originally charged with a
- 350 domestic violence offense otherwise described in this Subsection (4)[~~Conviction~~], except that
- 351 a conviction of disorderly conduct as a domestic violence offense, in the manner described in
- 352 this Subsection (4)(o), does not constitute a misdemeanor crime of domestic violence under 18
- 353 U.S.C. Sec. 921, and is exempt from [~~the provisions of~~] the federal Firearms Act, 18 U.S.C.
- 354 Sec. 921 et seq.; ~~H→~~ [or] ~~←H~~
- 355 (p) child abuse, as described in Section 76-5-109.1[:];
- 356 (q) threatening use of a dangerous weapon, as described in Section 76-10-506;
- 357 (r) threatening violence, as described in Section 76-5-107;
- 358 (s) tampering with a witness, as described in Section 76-8-508;
- 359 (t) retaliation against a witness or victim, as described in Section 76-8-508.3;
- 360 (u) unlawful distribution of an intimate image, as described in Section 76-5b-203;
- 361 (v) sexual battery, as described in Section 76-9-702.1;
- 362 (w) voyeurism, as described in Section 76-9-702.7;
- 363 (x) damage to or interruption of a communication device, as described in Section
- 364 76-6-108; or
- 365 (y) an offense described in Section 77-20-3.5.
- 366 (5) "Jail release agreement" means the same as that term is defined in Section

677 elements of Subsection (1) in the court order justifying the entry of the court order.

678 (3) A court may not grant an order for protection to a civil petitioner who is the
 679 respondent or defendant subject to a protective order, child protective order, ~~H→~~ or ~~←H~~ ex parte
 679a child

680 protective order:

681 (a) issued under:

682 (i) a foreign protection order enforceable under Chapter 7, Part 3, Uniform Interstate
 683 Enforcement of Domestic Violence Protection Orders Act;

684 (ii) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

685 (iii) Title 78A, Chapter 6, Juvenile Court Act; or

686 (iv) Chapter 7, Part 1, Cohabitant Abuse Act; and

687 (b) unless the court determines that the requirements of Subsection (1) are met, and:

688 (i) the same court issued the order for protection against the respondent; or

689 (ii) if the matter is before a subsequent court, the subsequent court:

690 (A) determines it would be impractical for the original court to consider the matter; or

691 (B) confers with the court that issued the order for protection.

692 Section 11. Section **78B-7-109** is amended to read:

693 **78B-7-109. Continuing duty to inform court of other proceedings -- Effect of**
 694 **other proceedings.**

695 (1) [~~At any hearing in a proceeding to obtain an order for protection, each~~] Each party
 696 has a continuing duty to inform the court of each proceeding for an order for protection, any
 697 civil litigation, each proceeding in juvenile court, and each criminal case involving either party,
 698 including the case name, the file number, and the county and state of the proceeding, if that
 699 information is known by the party.

700 (2) (a) An order for protection issued pursuant to this chapter is in addition to and not
 701 in lieu of any other available civil or criminal proceeding.

702 (b) A petitioner is not barred from seeking a protective order because of other pending
 703 proceedings.

704 (c) A court may not delay granting relief under this chapter because of the existence of
 705 a pending civil action between the parties.

706 (3) A petitioner may omit [~~his or her~~] the petitioner's address from all documents filed
 707 with the court under this chapter, but shall separately provide the court with a mailing address