

## HB0100S01 compared with HB0100

~~{deleted text}~~ shows text that was in HB0100 but was deleted in HB0100S01.

Inserted text shows text that was not in HB0100 but was inserted into HB0100S01.

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Representative V. Lowry Snow proposes the following substitute bill:

### SEXUAL VIOLENCE PROTECTIVE ORDERS

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: V. Lowry Snow**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

#### General Description:

This bill establishes the Sexual Violence Protection Act.

#### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a sexual violence protective order and an ex parte sexual violence protective order;
- ▶ establishes procedures for the application~~{ of certain protective orders }~~, modification~~{ of those orders }~~, and enforcement of ~~{ those orders }~~ a sexual violence protective order and an ex parte sexual violence protective order; and
- ▶ requires that a sexual violence protective order and a dating violence protective order be placed on the statewide warrant system.

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### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

**53-10-208**, as last amended by Laws of Utah 2009, Chapters 292 and 356

**53-10-208.1**, as last amended by Laws of Utah 2011, Chapter 366

#### ENACTS:

**78B-7-501**, Utah Code Annotated 1953

**78B-7-502**, Utah Code Annotated 1953

**78B-7-503**, Utah Code Annotated 1953

**78B-7-504**, Utah Code Annotated 1953

**78B-7-505**, Utah Code Annotated 1953

**78B-7-506**, Utah Code Annotated 1953

**78B-7-507**, Utah Code Annotated 1953

**78B-7-508**, Utah Code Annotated 1953

**78B-7-509**, Utah Code Annotated 1953

~~{ **78B-7-510**, Utah Code Annotated 1953~~

~~— **78B-7-511**, Utah Code Annotated 1953~~

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

Section 1. Section **53-10-208** is amended to read:

**53-10-208. Definition -- Offenses included on statewide warrant system --**

**Transportation fee to be included -- Statewide warrant system responsibility -- Quality control -- Training -- Technical support -- Transaction costs.**

(1) "Statewide warrant system" means the portion of the state court computer system that is accessible by modem from the state mainframe computer and contains:

(a) records of criminal warrant information; and

(b) after notice and hearing, records of protective orders issued pursuant to:

(i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; [or]

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(ii) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act~~[-]; or~~

~~(iii) Title 78B, Chapter 7, Part ~~5~~4, ~~Sexual~~Dating Violence Protection Act~~[-]; or~~~~

(iv) Title 78B, Chapter 7, Part 5, Sexual Violence Protection Act.

(2) (a) The division shall include on the statewide warrant system all warrants issued for felony offenses and class A, B, and C misdemeanor offenses in the state.

(b) The division shall include on the statewide warrant system all warrants issued for failure to appear on a traffic citation as ordered by a magistrate under Subsection 77-7-19(3).

(c) For each warrant, the division shall indicate whether the magistrate ordered under Section 77-7-5 and Rule 6, Utah Rules of Criminal Procedure, that the accused appear in court.

(3) The division is the agency responsible for the statewide warrant system and shall:

(a) ensure quality control of all warrants of arrest or commitment and protective orders contained in the statewide warrant system by conducting regular validation checks with every clerk of a court responsible for entering the information on the system;

(b) upon the expiration of the protective orders and in the manner prescribed by the division, purge information regarding protective orders described in Subsection 53-10-208.1(4) within 30 days of the time after expiration;

(c) establish system procedures and provide training to all criminal justice agencies having access to information contained on the state warrant system;

(d) provide technical support, program development, and systems maintenance for the operation of the system; and

(e) pay data processing and transaction costs for state, county, and city law enforcement agencies and criminal justice agencies having access to information contained on the state warrant system.

(4) (a) Any data processing or transaction costs not funded by legislative appropriation shall be paid on a pro rata basis by all agencies using the system during the fiscal year.

(b) This Subsection (4) supersedes any conflicting provision in Subsection (3)(e).

Section 2. Section 53-10-208.1 is amended to read:

### **53-10-208.1. Magistrates and court clerks to supply information.**

Every magistrate or clerk of a court responsible for court records in this state shall, within 30 days of the disposition and on forms and in the manner provided by the division, furnish the division with information pertaining to:

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- (1) all dispositions of criminal matters, including:
  - (a) guilty pleas;
  - (b) convictions;
  - (c) dismissals;
  - (d) acquittals;
  - (e) pleas held in abeyance;
  - (f) judgments of not guilty by reason of insanity for a violation of:
    - (i) a felony offense;
    - (ii) Title 76, Chapter 5, Offenses Against the Person; or
    - (iii) Title 76, Chapter 10, Part 5, Weapons;
  - (g) judgments of guilty with a mental illness;
  - (h) finding of mental incompetence to stand trial for a violation of:
    - (i) a felony offense;
    - (ii) Title 76, Chapter 5, Offenses Against the Person; or
    - (iii) Title 76, Chapter 10, Part 5, Weapons; or
  - (i) probations granted; and
- (2) orders of civil commitment under the terms of Section 62A-15-631;
- (3) the issuance, recall, cancellation, or modification of all warrants of arrest or commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303, within one day of the action and in a manner provided by the division; and
- (4) protective orders issued after notice and hearing, pursuant to:
  - (a) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; ~~[or]~~
  - (b) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act~~;~~

~~Section 2~~ ~~[;]~~;

~~(c) Title 78B, Chapter 7, Part 4, Dating Violence Protection Act; or~~

~~(d) Title 78B, Chapter 7, Part 5, Sexual Violence Protection Act.~~

Section 3. Section **78B-7-501** is enacted to read:

### **Part 5. Sexual Violence Protection Act**

**78B-7-501. Title.**

This part is known as the "Sexual Violence Protection Act."

Section ~~{3}~~4. Section **78B-7-502** is enacted to read:

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### 78B-7-502. Definitions.

As used in this ~~{chapter}~~part:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

~~{~~ (2) "Court clerk" means a district court clerk.

~~}~~ (~~{3}~~2) "Dating partner" means the same as that term is defined in Section 78B-7-402.

(~~{4}~~3) "Ex parte sexual violence protective order" means an order issued without notice to the respondent in accordance with ~~{this chapter}~~.

~~\_\_\_\_\_~~ (5) "Foreign protection order" means the same as that term is defined in Section 78B-7-302.

~~\_\_\_\_\_~~ (6) "Law enforcement unit" or "law enforcement agency" means the same as that term is defined in Section 78B-7-302.

~~\_\_\_\_\_~~ (7) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace Officer Classifications.

~~\_\_\_\_\_~~ (8)the requirements of this part.

(4) "Protective order" means:

(a) ~~{an order issued pursuant to this chapter subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice in accordance with this chapter; or~~

~~\_\_\_\_\_~~ (b) an order issued under Subsection 77-36-5.1(6);

~~\_\_\_\_\_~~ (9)a sexual violence protective order; or

(b) an ex parte sexual violence protective order.

(5) "Sexual violence" means the commission or the attempt to commit:

(i) any sexual offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, ~~{and}~~or Title 76, Chapter 5, Part 4, Sexual Exploitation;

(ii) human trafficking for forced exploitation under Section 76-5-308;

(iii) human trafficking for forced exploitation under Section 76-5-308.5; or

(iv) aggravated human trafficking for forced exploitation under Section 76-5-310.

(6) "Sexual violence protective order" means an order issued after notice and a hearing in accordance with the requirements of this part.

Section ~~{4}~~5. Section **78B-7-503** is enacted to read:

### **78B-7-503. Sexual violence protective orders.**

(1) An individual who has been subjected to sexual violence, and who is neither a

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cohabitant nor a dating partner of the perpetrator, may seek an ex parte sexual violence protective order or a sexual violence protective order under this part.

(2) A petition seeking a sexual violence protective order may not be withdrawn without ~~approval~~ written order of the court.

Section ~~5~~6. Section 78B-7-504 is enacted to read:

**78B-7-504. Sexual violence protective orders -- Ex parte protective orders --**  
**Modification of orders**~~{-- Service of process -- Duties of the court}~~.

(1) If it appears from a petition for a protective order or a petition to modify ~~fa~~an existing protective order that sexual violence has occurred, ~~for that a modification of a protective order is required, a~~the district court may:

(a) without notice, immediately issue an ~~order for protection ex parte or modify an order for protection ex parte as it considers~~ ex parte sexual violence protective order against the respondent or modify an existing sexual violence protective order ex parte, if necessary to protect the petitioner ~~and all parties~~ or any party named ~~to be protected~~ in the petition; or

(b) upon notice to the respondent, issue a sexual violence protective order or modify a sexual violence protective order after a hearing, regardless of whether the respondent appears.

(2) ~~A~~The district court may grant the following relief with or without notice in a protective order or in a modification ~~issued ex parte~~ to a protective order:

(a) ~~enjoin~~ prohibit the respondent from threatening to commit ~~sexual violence,~~ or committing sexual violence ~~, or harassing~~ against the petitioner ~~or any designated~~ and a family ~~member~~ or household member designated in the protective order;

(b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or ~~any designated~~ a family ~~member~~ or household member designated in the protective order, directly or indirectly;

(c) order that the respondent:

(i) is excluded and shall stay away from the petitioner's residence and its premises;

(ii) subject to Subsection (~~2~~(c), 4), stay away from the petitioner's:

(A) school and its premises;

(B) place of employment and its premises; or

(C) place of worship and its premises; or

(iii) stay away from any specified place frequented by the petitioner or a family or

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household member designated in the protective order;

(d) prohibit the respondent from being within a specified distance of the petitioner;

~~— (d) subject to Subsection (2)(c), order; or~~

(e) order any further relief that the district court considers necessary to provide for the safety and welfare of the petitioner and a family or household member designated in the protective order.

(3) The district court may grant the following relief in a sexual violence protective order or a modification of a sexual violence protective order, after notice and a hearing, regardless of whether the respondent appears:

(a) the relief described in Subsection (2); and

(b) except as provided in Subsection (5), upon finding that the {respondent is excluded from and is to stay away from the following places and their premises:

~~— (i) the petitioner's residence or any designated family member's residence;~~ respondent's use or possession of a weapon poses a serious threat of harm to the petitioner or a family or household {member's residence};

~~— (ii) the petitioner's school or any designated family member's school or household member's school;~~

~~— (iii) the petitioner's or any designated family member's place of employment or household member's place of employment;~~

~~— (iv) the petitioner's place of worship or any designated family member's place of worship or household member's place of worship; or~~

~~— (v) any specified place frequented by the petitioner or any designated family member or household member;~~

~~— (c) if {member designated in the protective order, prohibit the respondent from purchasing, using, or possessing a weapon specified by the district court.~~

(4) If the petitioner or {designated} a family {member} or household member designated in the protective order attends the same school as the respondent, is employed at the same place of employment as the respondent, or attends the same place of worship as the respondent, the court {:

~~— (i) } may {not} enter an order {under Subsection };~~

{(2)(c)} a {or (d)} that excludes the respondent from the respondent's school, place of

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employment, or place of worship; ~~and~~ or

~~(iii)b~~ ~~may enter an order~~ governing the respondent's conduct at the respondent's school, place of employment, or place of worship; ~~and~~

~~(f) upon finding~~;

(5) The district court may not prohibit the respondent from possessing a firearm:

(a) if the respondent has not been given notice of the petition for a protective order and an opportunity to be heard; and

(b) unless the petition establishes:

(i) by a preponderance of the evidence that the respondent committed sexual violence against the petitioner; and

(ii) by clear and convincing evidence that the respondent's use or possession of a ~~weapon may pose~~ firearm poses a serious threat of harm to the petitioner; ~~prohibit the respondent from purchasing, using, or possessing a firearm or other weapon specified by the court.~~

~~(3) Following~~ or a family or household member designated in the protective order ~~hearing, the~~;

(6) After the day on which the district court issues a sexual violence protective order, the district court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts at the hearing to ensure that the ~~order for protection is understood by the~~ petitioner; ~~and~~ the respondent, if present, understand the sexual violence protective order;

(c) transmit electronically, by the end of the ~~next~~ business day after the ~~order is issued~~ day on which the court issues the order, a copy of the ~~order for protection~~ sexual violence protective order to ~~the~~ a local law enforcement agency ~~or agencies~~ designated by the petitioner; and

(d) transmit a copy of the ~~order to the statewide domestic and~~ sexual violence ~~network~~ protective order in the same manner as described in Section 78B-7-113.

~~(4)7~~ (a) ~~Each~~ A respondent may request the court modify or vacate a protective order; ~~shall include two separate portions, one for provisions, the violation of which are criminal offenses, and one for provisions, the violation of which are civil violations, as follows:~~

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- ~~—— (i) criminal offenses are those under Subsections (2)(a) through (e); and~~
- ~~—— (ii) civil offenses are those under Subsection (2)(f).~~
- ~~—— (b) The criminal provision portion shall include a statement that violation of any criminal provision is a class A misdemeanor.~~
- ~~—— (c) The civil provision portion shall include a notice that violation of or failure to comply with a civil provision is subject to contempt proceedings.~~
- ~~—— (5) The protective order shall include:~~
  - ~~—— (a) a designation of a specific date, determined by the court, when the civil portion of the protective order either expires or is scheduled for review by the court, which date may not exceed 150 days after the date the order is issued, unless the court indicates on the record the reason for setting a date beyond 150 days;~~
  - ~~—— (b) information the petitioner is able to provide to facilitate identification of the respondent, such as social security number, driver license number, date of birth, address, telephone number, and physical description; and~~
  - ~~—— (c) a statement advising the petitioner that:~~
    - ~~—— (i) after two years from the date of issuance of the protective order, a hearing may be held to dismiss the criminal portion of the protective order;~~
    - ~~—— (ii) the petitioner should, within the 30 days prior to the end of the two-year period, advise the court of the petitioner's current address for notice of any hearing; and~~
    - ~~—— (iii) the address provided by the petitioner will not be made available to the respondent.~~
- ~~—— (6) (a) The county sheriff that receives the order from the court, pursuant to this Subsection (6)(a), shall provide expedited service for orders for protection issued} in accordance with {this chapter and shall transmit verification of service of process, when the order has been served, to the statewide domestic and sexual violence network described in Section 78B-7-113.~~
  - ~~—— (b) This section does not prohibit any law enforcement agency from providing service of process if that law enforcement agency:~~
    - ~~—— (i) has contact with the respondent and service by that law enforcement agency is possible; or~~
    - ~~—— (ii) determines that under the circumstances, providing service of process on the respondent is in the best interest of the petitioner.~~

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~~(7) (a) When an order is served on a respondent in a jail or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.~~

~~(b) Notification of the petitioner shall consist of a good faith reasonable effort to provide notification, including mailing a copy of the notification to the last-known address of the victim.~~

~~(8) A~~ Subsection (7)(b).

(b) Upon a respondent's request, the district court may modify or vacate ~~an order of protection or any provisions in the~~ a protective order after notice and hearing, ~~except that the criminal provisions of a protective order may not be vacated within two years of issuance unless~~ if the petitioner:

(a) is personally served with notice of the hearing, as provided in ~~Rules 4 and 5,~~ the Utah Rules of Civil Procedure, and ~~the petitioner personally appears, in person or through court video conferencing, before the court and gives~~ appears before the district court to give specific consent to the modification or vacation of the ~~criminal~~ provisions of the protective order; or

(b) submits ~~a verified~~ an affidavit ~~, stating agreement,~~ agreeing to the modification or vacation of the ~~criminal~~ provisions of the protective order.

~~(9) 8) A protective order may be modified without a showing of substantial and material change in circumstances.~~

~~(10) Insofar as~~ To the extent that the provisions of this ~~chapter~~ part are more specific than the Utah Rules of Civil Procedure ~~,,~~ regarding a protective ~~orders~~ order, the provisions of this ~~chapter~~ part govern.

Section ~~6~~ 7. Section **78B-7-505** is enacted to read:

**78B-7-505. Hearings**.

~~(1) (a) When a~~ -- Expiration -- Extension.

(1) (a) Within 20 days after the day on which a district court issues an ex parte sexual violence protective order, the district court shall set a date for a hearing on the petition ~~to be held within 20 days after the day on which the ex parte order is issued.~~

~~(b) If at that hearing the~~ for a sexual violence protective order.

(b) If, at the hearing described in Subsection (1)(a), the district court does not issue a

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sexual violence protective order, the ex parte sexual protective order ~~{shall expire}~~ expires, unless ~~{it is otherwise}~~ extended by the district court. ~~{Extensions beyond}~~

(c) The district court may extend the 20-day period ~~{may not be granted unless}~~ described in Subsection (1)(a) only if:

(i) the petitioner is unable to be present at the hearing;

(ii) the respondent has not been served;

~~(iii) the respondent has had the opportunity to present a defense at the hearing;~~

~~(iv) the respondent requests that the ex parte order be extended; or~~

~~(v) or~~

(iii) exigent circumstances exist.

~~{c}d~~ Under no circumstances may an ex parte sexual violence order be extended beyond 180 days from the ~~{date of initial issuance}~~.

~~(d) If at that hearing the~~ day on which the district court issues the initial ex parte sexual violence protective order.

(e) If, at the hearing described in Subsection (1)(a), the district court issues a sexual violence protective order, the ex parte sexual violence protective order remains in effect until service of process of the sexual violence protective order is completed.

~~{c}f~~ ~~{A}~~ Except as provided in Subsection (3), a sexual violence protective order ~~{issued after notice and a hearing is effective until further order of the court}~~.

~~{f}~~ remains in effect for 180 days after the day on which the district court issues the order.

(g) If the hearing ~~{on the petition}~~ described in Subsection (1)(a) is ~~{heard}~~ held by a commissioner, ~~{either}~~ the petitioner or respondent may file an objection within 10 calendar days ~~{of}~~ after the ~~{entry of}~~ day on which the commissioner enters the recommended order, and the assigned judge shall hold a hearing on the objection within 20 days ~~{of the filing of the objection}~~.

~~(2) Upon a hearing under this section, the court may grant any of the relief described in Section 78B-7-504.~~

~~(3) When a~~ after the day on which the objection is filed.

(2) If the district court denies a petition for an ex parte sexual violence protective order or a petition to modify ~~{an order for protection ex parte, upon the request of the petitioner, the~~

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~~court shall~~ a sexual violence protective order ex parte, the district court shall, upon the petitioner's request:

(a) set the matter for hearing; and

(b) notify ~~the petitioner~~ and serve the respondent.

~~{4} A respondent who has been served with an ex parte~~ 3) (a) A sexual violence protective order automatically expires under Subsection (1)(f) unless:

(i) the petitioner files a motion before the day on which the sexual violence protective order expires requesting an extension of the sexual violence protective order; and

(ii) after notice and a hearing on the motion, the district court finds that an extension of the sexual violence protective order is necessary to protect the petitioner or any party named in the sexual violence protective order.

(b) (i) If the district court denies the motion described in Subsection (3)(a), the sexual violence protective order expires under Subsection (1)(f).

(ii) If the district court grants the motion described in Subsection (3)(a), the district court shall set a new date on which the sexual violence protective order expires.

(iii) A sexual violence protective order that is extended under this Subsection (3), may not be extended for more than 180 days after the day on which the district court issues the order for extension.

(iv) A sexual violence protective order may ~~seek to vacate the ex parte~~ not be extended more than once.

(c) After the day on which the district court issues an extension of a sexual violence protective order ~~prior to the hearing scheduled pursuant to Subsection (1)(a) by filing a verified motion to vacate. The respondent's verified motion to vacate and a notice of hearing on that motion shall be personally served on the petitioner at least two days prior to the hearing on the motion to vacate.~~

~~Section 7~~, the district court shall take the action described in Subsection 78B-7-504(6).

(4) Nothing in this part prohibits a petitioner from seeking another protective order after the day on which the petitioner's protective order expires.

Section 8. Section 78B-7-506 is enacted to read:

78B-7-506. ~~Fees -- Service~~ Service of process.

(1) ~~Protective orders issued under this part shall be served by the sheriff's office.~~

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~~constable's office, or any}~~(a) The county sheriff that receives an order from the court under Subsection 78B-7-504(6) or 78B-7-505(3) shall:

(i) provide expedited service for the sexual violence protective order; and

(ii) after the sexual violence protective order is served, transmit verification of service of process to the statewide network described in Section 78B-7-113.

(b) This section does not prohibit another law enforcement agency ~~for peace officer, in accordance with Subsection 78B-7-504(6):~~

~~(2) Fees}~~from providing service of process if the law enforcement agency:

(i) has contact with the respondent; or

(ii) determines that, under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.

(2) When a sexual violence protective order is served on a respondent in jail, or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

Section 9. Section 78B-7-507 is enacted to read:

### 78B-7-507. Fees -- Forms.

(1) A fee may not be imposed by a court clerk, sheriff, constable, or law enforcement agency for:

(a) filing a petition ~~under this part}~~for a protective order;

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

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

~~(3)2~~ (a) The ~~offices}~~office of the court clerk shall provide forms and nonlegal assistance to an individual seeking to proceed under this part.

(b) The Administrative Office of the Courts shall:

(i) develop and adopt uniform forms for ~~petitions and orders}~~a petition for ~~protection}~~ a protective order and a protective order in accordance with ~~the provisions of }~~this ~~chapter}~~part; and

(ii) provide the forms ~~described in Subsection (3)(b)(i)}~~ to the clerk of each court authorized to issue a protective ~~orders}~~order.

(c) The forms described in this Subsection (~~3)(b)(i)2~~) shall include:

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

(ii) language stating violation of ~~any criminal provision~~a protective order is a class A misdemeanor; and

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

~~(4)3~~ If the individual seeking to proceed under this ~~chapter~~part is not represented by an attorney, it is the responsibility of the court clerk's office to provide:

(a) the forms adopted ~~pursuant to~~in accordance with Subsection (~~3)2~~);

(b) all other forms required to petition for ~~an order for protection~~a protective order, including forms for service of process;

(c) except ~~for~~as provided ~~by~~in Subsection (~~5)4~~), clerical assistance in filling out the forms and filing the petition, in accordance with Subsection (~~3)(a)2~~);

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

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

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

~~(5)4~~ A court clerk's office may designate ~~any other~~another entity, agency, or individual to provide the service described in Subsection (~~4)3~~(c), but the court clerk's office is responsible to see that the service of process is provided.

~~(6)5~~ A petition for a ~~sexual violence protective order or ex parte sexual violence~~ protective order shall be in writing and verified.

~~(7)6~~ (a) ~~All~~A protective ~~orders issued under this part~~order shall be issued in the form adopted by the Administrative Office of the Courts under Subsection (~~3)(b)2~~).

(b) ~~Each~~A sexual violence protective order or a modification to a protective order issued ~~under this part, except orders issued ex parte,~~after notice and a hearing shall include the following language:

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

Section ~~{8}~~10. Section ~~{78B-7-507}~~78B-7-508 is enacted to read:

~~{78B-7-507}~~78B-7-508. **Enforcement -- Penalty for violation.**

(1) A law enforcement officer shall, without a warrant, arrest an individual if the officer has probable cause to believe that the individual has intentionally or knowingly violated a ~~{sexual violence}~~ protective order issued under this part, regardless of whether the violation occurred in the presence of the officer.

(2) A violation of a ~~{sexual violence}~~ protective order issued under this part ~~{constitutes}~~is a class A misdemeanor.

Section ~~{9}~~11. Section ~~{78B-7-508}~~78B-7-509 is enacted to read:

~~{78B-7-508}~~78B-7-509. **Duties of law enforcement officers -- Notice to victims.**

(1) A law enforcement officer who responds to an allegation of sexual violence shall use all reasonable means to protect the victim and prevent further sexual violence, including:

(a) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;

(b) confiscating any weapon or weapons involved in the alleged sexual violence;

(c) making arrangements for the victim and any child to obtain emergency housing or shelter;

(d) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and

(e) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of ~~{victims}~~the victim and of the remedies and services available to victims of sexual violence, in accordance with Subsection (2).

(2) (a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this ~~{chapter}~~part.

(b) The written notice shall also include:

(i) a statement that the forms needed in order to obtain ~~{an order for protection}~~a

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protective order are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and

(ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.

(3) If a weapon is confiscated under this section, the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a sexual violence protective order is not issued or once the sexual violence protective order is terminated.

~~{ Section 10. Section 78B-7-509 is enacted to read:~~

~~78B-7-509. Dismissal of protective order -- Expiration:~~

~~(1) Except as provided in Subsection (6), a sexual violence protective order that has been in effect for at least two years may be dismissed if the court determines that the petitioner no longer has a reasonable fear of future harm or sexual violence. In determining whether the petitioner no longer has a reasonable fear of future harm or sexual violence, the court shall consider the following factors:~~

~~(a) whether the respondent has complied with treatment recommendations related to sexual violence that were recommended at the time the protective order was entered;~~

~~(b) whether the protective order was violated during the time it was in force;~~

~~(c) claims of harassment or sexual violence by either party during the time the protective order was in force;~~

~~(d) counseling or therapy undertaken by either party; and~~

~~(e) any other factors the court considers relevant to the case before the court.~~

~~(2) Except as provided in Subsection (6), the court may amend or dismiss a protective order issued in accordance with this part that has been in effect for at least one year if the court finds that:~~

~~(a) the basis for the issuance of the protective order no longer exists;~~

~~(b) the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order;~~

~~(c) the petitioner's actions demonstrate that the petitioner no longer has a reasonable fear of the respondent; and~~

~~(d) the respondent has not been convicted of a protective order violation or any crime of sexual violence subsequent to the issuance of the protective order, and there are no~~

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~~unresolved charges involving sexual violence still on file with the court.~~

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

~~—— (a) in bad faith; or~~

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

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

~~—— (5) When the court dismisses a protective order, the court shall immediately:~~

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

~~—— (b) transmit a copy of the order of dismissal to the statewide domestic and sexual violence network as described in Section 78B-7-113.~~

~~—— (6) Notwithstanding the other provisions of this section, a continuous protective order may not be modified or dismissed except as provided in Subsection 77-36-5.1(6).~~

~~—— Section 11. Section 78B-7-510 is enacted to read:~~

~~—— **78B-7-510. Expiration of protective order.**~~

~~—— (1) Subject to the other provisions of this section, a civil protective order issued under this part automatically expires 10 years from the day on which the protective order is entered.~~

~~—— (2) The protective order automatically expires as described in Subsection (1), unless the petitioner files a motion before expiration of the protective order and demonstrates that:~~

~~—— (a) the petitioner has a current reasonable fear of future harm or sexual violence, as described in Subsection 78B-7-502(1); or~~

~~—— (b) the respondent has been convicted of a protective order violation or any crime of sexual violence subsequent to the issuance of the protective order.~~

~~—— (3) If the court grants the motion under Subsection (2), the court shall set a new date on which the protective order expires. The protective order will expire unless the petitioner files a motion described in Subsection (2) to extend the protective order.~~

~~—— Section 12. Section 78B-7-511 is enacted to read:~~

~~—— **78B-7-511. Statewide domestic and sexual violence network -- Peace officers' duties -- Prevention of abuse in absence of order -- Limitation of liability.**~~

~~—— (1) (a) Law enforcement units, the Department of Public Safety, and the Administrative~~

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~~Office of the Courts shall utilize statewide procedures to ensure that peace officers at the scene of an alleged violation of a protective order or pretrial criminal no contact order have immediate access to information necessary to verify the existence and terms of that order and other orders of the court required to be made available on the network by the provisions of this chapter, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, or Section 77-38-3. Those officers shall use every reasonable means to enforce the court's order, in accordance with the requirements and procedures of this chapter, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, and Section 77-38-3.~~

~~—— (b) The Administrative Office of the Courts, in cooperation with the Department of Public Safety and the Criminal Investigations and Technical Services Division, established in Section 53-10-103, shall provide for a single, statewide network containing:~~

~~—— (i) all orders for protection issued by a court of this state; and~~

~~—— (ii) all other court orders or reports of court action that are required to be available on the network under this chapter, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, and Section 77-38-3.~~

~~—— (c) The entities described in Subsection (1)(b) may utilize the same mechanism as the statewide warrant system, described in Section 53-10-208.~~

~~—— (d) All orders and reports required to be available on the network shall be available within 24 hours after court action. If the court that issued the order is not part of the state court computer system, the orders and reports shall be available on the network within 72 hours.~~

~~—— (e) The information contained in the network shall be available to a court, law enforcement officer, or agency upon request.~~

~~—— (2) When any peace officer has reason to believe a cohabitant or child of a cohabitant is being abused, or that there is a substantial likelihood of immediate danger of abuse, although no protective order has been issued, that officer shall use all reasonable means to prevent the abuse, including:~~

~~—— (a) remaining on the scene as long as it reasonably appears there would otherwise be danger of abuse;~~

~~—— (b) making arrangements for the victim to obtain emergency medical treatment;~~

~~—— (c) making arrangements for the victim to obtain emergency housing or shelter care;~~

~~—— (d) explaining to the victim his or her rights in these matters;~~

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~~—— (e) asking the victim to sign a written statement describing the incident of abuse; or~~

~~—— (f) arresting and taking into physical custody the abuser in accordance with the provisions of Title 77, Chapter 36, Cohabitant Abuse Procedures Act.~~

~~—— (3) No person or institution may be held criminally or civilly liable for the performance of, or failure to perform, any duty established by this chapter, so long as that person acted in good faith and without malice.~~

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