

Representative Andrew Stoddard proposes the following substitute bill:

DOMESTIC VIOLENCE MODIFICATIONS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christine F. Watkins

Senate Sponsor: _____

LONG TITLE

General Description:

This bill regards concealed firearm permits for victims of domestic violence or dating violence.

Highlighted Provisions:

This bill:

- ▶ allows a court, under the Cohabitant Abuse Act and the Dating Violence Protection Act, to grant a temporary concealed firearm permit to certain victims of domestic violence or dating violence that is valid for a limited period;
- ▶ requires the Bureau of Criminal Identification to conduct a background check and issue a certification to a qualifying victim for a court's issuance of a temporary concealed firearm permit;
- ▶ allows an applicant to use a protective order in lieu of a written statement to apply for the Bureau of Criminal Identification's issuance of a temporary concealed firearm permit;
- ▶ waives certain application fees for a concealed firearm permit;
- ▶ clarifies that the Bureau of Criminal Identification may deny, suspend, or revoke a concealed firearm permit if the applicant or permit holder is not qualified to purchase and possess a firearm under state or federal law; and



26 ▶ makes technical and conforming changes.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **53-5-702**, as last amended by Laws of Utah 2013, Chapter 280

34 **53-5-704**, as last amended by Laws of Utah 2013, Chapter 280

35 **53-5-705**, as last amended by Laws of Utah 2010, Chapter 62

36 **53-5-707**, as last amended by Laws of Utah 2018, Chapter 417

37 **78B-7-102**, as last amended by Laws of Utah 2018, Chapter 255

38 **78B-7-105**, as last amended by Laws of Utah 2018, Chapters 124 and 255

39 **78B-7-106**, as last amended by Laws of Utah 2018, Chapters 124 and 255

40 **78B-7-404**, as enacted by Laws of Utah 2013, Chapter 179



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

43 Section 1. Section **53-5-702** is amended to read:

44 **53-5-702. Definitions.**

45 In addition to the definitions in Section **76-10-501**, as used in this part:

46 (1) "Active duty service member" means a person on active military duty with the
47 United States military and includes full time military active duty, military reserve active duty,
48 and national guard military active duty service members stationed in Utah.

49 (2) "Active duty service member spouse" means a person recognized by the military as
50 the spouse of an active duty service member and who resides with the active duty service
51 member in Utah.

52 (3) "Board" means the Concealed Firearm Review Board created in Section **53-5-703**.

53 (4) "Bureau" means the Bureau of Criminal Identification created in Section **53-10-201**
54 within the Department of Public Safety.

55 (5) "Commissioner" means the commissioner of the Department of Public Safety.

56 (6) "Conviction" means criminal conduct where the filing of a criminal charge has

57 resulted in:

- 58 (a) a finding of guilt based on evidence presented to a judge or jury;
- 59 (b) a guilty plea;
- 60 (c) a plea of nolo contendere;
- 61 (d) a plea of guilty or nolo contendere which is held in abeyance pending the successful
- 62 completion of probation;
- 63 (e) a pending diversion agreement; or
- 64 (f) a conviction which has been reduced pursuant to Section 76-3-402.

65 (7) "Preliminary record check certificate" means a document issued by the bureau

66 indicating that:

- 67 (a) regarding an applicant, the bureau completed preliminary record checks with the
- 68 bureau and the National Crime and Information Center; and
- 69 (b) the record checks did not reveal any information that would prevent the applicant
- 70 from qualifying to be issued a permit to carry a concealed firearm under Subsection
- 71 53-5-704(2).

72 Section 2. Section 53-5-704 is amended to read:

73 **53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for**

74 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**

75 **suspension, or revocation -- Appeal procedure.**

76 (1) (a) The bureau shall issue a permit to carry a concealed firearm for lawful self

77 defense to an applicant who is 21 years of age or older within 60 days after receiving an

78 application, unless the bureau finds proof that the applicant does not meet the qualifications set

79 forth in Subsection (2).

80 (b) The permit is valid throughout the state for five years, without restriction, except as

81 otherwise provided by Section 53-5-710.

82 (c) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not

83 apply to ~~a person~~ an individual issued a permit under Subsection (1)(a).

84 (d) Subsection (4)(a) does not apply to ~~a nonresident~~:

85 (i) a nonresident active duty service member, who ~~present~~ presents to the bureau

86 orders requiring the active duty service member to report for duty in this state; or

87 (ii) an active duty service member's spouse, stationed with the active duty service

88 member, who presents to the bureau the active duty service member's orders requiring the
89 service member to report for duty in this state.

90 (2) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if the
91 applicant or permit holder:

92 (i) has been or is convicted of a felony;

93 (ii) has been or is convicted of a crime of violence;

94 (iii) has been or is convicted of an offense involving the use of alcohol;

95 (iv) has been or is convicted of an offense involving the unlawful use of narcotics or
96 other controlled substances;

97 (v) has been or is convicted of an offense involving moral turpitude;

98 (vi) has been or is convicted of an offense involving domestic violence;

99 (vii) has been or is adjudicated by a state or federal court as mentally incompetent,
100 unless the adjudication has been withdrawn or reversed; and

101 (viii) is not qualified to purchase and possess a firearm ~~[pursuant to]~~ under Section
102 76-10-503 ~~[and]~~ or federal law.

103 (b) In determining whether an applicant or permit holder meets the qualifications set
104 forth in Subsection (2)(a), the bureau shall consider mitigating circumstances.

105 (3) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if it has
106 reasonable cause to believe that the applicant or permit holder has been or is a danger to self or
107 others as demonstrated by evidence, including:

108 (i) past pattern of behavior involving unlawful violence or threats of unlawful violence;

109 (ii) past participation in incidents involving unlawful violence or threats of unlawful
110 violence; or

111 (iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.

112 (b) The bureau may not deny, suspend, or revoke a concealed firearm permit solely for
113 a single conviction of an infraction violation of Title 76, Chapter 10, Part 5, Weapons.

114 (c) In determining whether the applicant or permit holder has been or is a danger to self
115 or others, the bureau may inspect:

116 (i) expunged records of arrests and convictions of adults as provided in Section
117 77-40-109; and

118 (ii) juvenile court records as provided in Section 78A-6-209.

119 (4) (a) In addition to meeting the other qualifications for the issuance of a concealed
120 firearm permit under this section, a nonresident applicant who resides in a state that recognizes
121 the validity of the Utah permit or has reciprocity with Utah's concealed firearm permit law
122 shall:

123 (i) hold a current concealed firearm or concealed weapon permit issued by the
124 appropriate permitting authority of the nonresident applicant's state of residency; and

125 (ii) submit a photocopy or electronic copy of the nonresident applicant's current
126 concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).

127 (b) A nonresident applicant who knowingly and willfully provides false information to
128 the bureau under Subsection (4)(a) is prohibited from holding a Utah concealed firearm permit
129 for a period of 10 years.

130 (c) Subsection (4)(a) applies to all applications for the issuance of a concealed firearm
131 permit [~~that are received by the bureau after May 10, 2011~~].

132 (d) [~~Beginning January 1, 2012,~~] Subsection (4)(a) also applies to an application for
133 renewal of a concealed firearm permit by a nonresident.

134 (5) The bureau shall issue a concealed firearm permit to a former peace officer who
135 departs full-time employment as a peace officer, in an honorable manner, within five years of
136 that departure if the officer meets the requirements of this section.

137 (6) Except as provided in Subsection (7), the bureau shall also require the applicant to
138 provide:

139 (a) the address of the applicant's permanent residence;

140 (b) one recent dated photograph;

141 (c) one set of fingerprints; and

142 (d) evidence of general familiarity with the types of firearms to be concealed as defined
143 in Subsection (8).

144 (7) An applicant who is a law enforcement officer under Section [53-13-103](#) may
145 provide a letter of good standing from the officer's commanding officer in place of the evidence
146 required by Subsection (6)(d).

147 (8) (a) General familiarity with the types of firearms to be concealed includes training
148 in:

149 (i) the safe loading, unloading, storage, and carrying of the types of firearms to be

150 concealed; and

151 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful
152 self-defense, use of force by a private citizen, including use of deadly force, transportation, and
153 concealment.

154 (b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by
155 one of the following:

156 (i) completion of a course of instruction conducted by a national, state, or local
157 firearms training organization approved by the bureau;

158 (ii) certification of general familiarity by a person who has been certified by the bureau,
159 which may include a law enforcement officer, military or civilian firearms instructor, or hunter
160 safety instructor; or

161 (iii) equivalent experience with a firearm through participation in an organized
162 shooting competition, law enforcement, or military service.

163 (c) Instruction taken by a student under Subsection (8) shall be in person and not
164 through electronic means.

165 (9) (a) An applicant for certification as a Utah concealed firearms instructor shall:

166 (i) be at least 21 years of age;

167 (ii) be currently eligible to possess a firearm under Section 76-10-503;

168 [~~(iii) have:~~]

169 (iii) (A) [~~completed~~] complete a firearm instruction training course from the National
170 Rifle Association or the Department of Public Safety, Division of Peace Officer Safety
171 Standards and Training; or

172 (B) [~~received~~] receive training equivalent to one of the courses referred to in
173 Subsection (9)(a)(iii)(A) as determined by the bureau;

174 (iv) [~~have taken~~] take a course of instruction and passed a certification test as described
175 in Subsection (9)(c); and

176 (v) possess a Utah concealed firearm permit.

177 (b) An instructor's certification is valid for three years from the date of issuance, unless
178 revoked by the bureau.

179 (c) (i) In order to obtain initial certification or renew a certification, an instructor shall
180 attend an instructional course and pass a test under the direction of the bureau.

181 (ii) (A) The bureau shall provide or contract to provide the course referred to in
182 Subsection (9)(c)(i) twice every year.

183 (B) The course shall include instruction on current Utah law related to firearms,
184 including concealed carry statutes and rules, and the use of deadly force by private citizens.

185 (d) (i) Each applicant for certification under this Subsection (9) shall pay a fee of
186 \$50.00 at the time of application for initial certification.

187 (ii) The renewal fee for the certificate is \$25.

188 (iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated
189 credit to cover the cost incurred in maintaining and improving the instruction program required
190 for concealed firearm instructors under this Subsection (9).

191 (10) A certified concealed firearms instructor shall provide each of the instructor's
192 students with the required course of instruction outline approved by the bureau.

193 (11) (a) (i) A concealed firearms instructor shall provide a signed certificate to [~~a~~
194 ~~person successfully completing~~] an individual who successfully completes the offered course
195 of instruction.

196 (ii) The instructor shall sign the certificate with the exact name indicated on the
197 instructor's certification issued by the bureau under Subsection (9).

198 (iii) (A) The certificate shall also have affixed to [~~it~~] the certificate the instructor's
199 official seal, which is the exclusive property of the instructor and may not be used by any other
200 person.

201 (B) The instructor shall destroy the seal upon revocation or expiration of the
202 instructor's certification under Subsection (9).

203 (C) The bureau shall determine the design and content of the seal to include at least the
204 following:

205 (I) the instructor's name as [~~it~~] the name appears on the instructor's certification;

206 (II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my
207 certification expires on (the instructor's certification expiration date)"; and

208 (III) the instructor's business or residence address.

209 (D) The seal shall be affixed to each student certificate issued by the instructor in a
210 manner that does not obscure or render illegible any information or signatures contained in the
211 document.

212 (b) The applicant shall provide the certificate to the bureau in compliance with
213 Subsection (6)(d).

214 (12) The bureau may deny, suspend, or revoke the certification of an applicant or a
215 concealed firearms instructor if it has reason to believe the applicant or the instructor has:

- 216 (a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or
- 217 (b) knowingly and willfully provided false information to the bureau.

218 (13) An applicant for certification or a concealed firearms instructor has the same
219 appeal rights as set forth in Subsection (16).

220 (14) In providing instruction and issuing a permit under this part, the concealed
221 firearms instructor and the bureau are not vicariously liable for damages caused by the permit
222 holder.

223 (15) An individual who knowingly and willfully provides false information on an
224 application filed under this part is guilty of a class B misdemeanor, and the application may be
225 denied, or the permit may be suspended or revoked.

226 (16) (a) In the event of a denial, suspension, or revocation of a permit, the applicant or
227 permit holder may file a petition for review with the board within 60 days [~~from~~] after the date
228 the denial, suspension, or revocation is received by the applicant or permit holder by certified
229 mail, return receipt requested.

230 (b) The bureau's denial of a permit shall be in writing and shall include the general
231 reasons for the action.

232 (c) If an applicant or permit holder appeals the denial to the review board, the applicant
233 or permit holder may have access to the evidence upon which the denial is based in accordance
234 with Title 63G, Chapter 2, Government Records Access and Management Act.

235 (d) On appeal to the board, the bureau has the burden of proof by a preponderance of
236 the evidence.

237 (e) (i) Upon a ruling by the board on the appeal of a denial, the board shall issue a final
238 order within 30 days stating the board's decision.

239 (ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).

240 (iii) The final order is final bureau action for purposes of judicial review under Section
241 63G-4-402.

242 (17) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah

243 Administrative Rulemaking Act, necessary to administer this chapter.

244 Section 3. Section **53-5-705** is amended to read:

245 **53-5-705. Temporary permit to carry concealed firearm -- Denial, suspension, or**
246 **revocation -- Appeal.**

247 (1) The bureau or its designated agent may issue a temporary permit to carry a
248 concealed firearm to ~~[a person]~~ an individual who:

- 249 (a) has applied for a permit under Section [53-5-704](#);
- 250 (b) has applied for a temporary permit under this section; and
- 251 (c) meets the criteria required in Subsections (2) and (3).

252 (2) To receive a temporary permit under this section, the applicant shall:

253 (a) demonstrate in writing to the satisfaction of the bureau extenuating circumstances
254 that would justify issuing a temporary permit[-]; or

255 (b) provide a copy of a protective order issued under Subsection [78B-7-106\(1\)\(b\)](#) or
256 [78B-7-404\(1\)\(b\)](#), which identifies the applicant as the protected individual.

257 (3) A temporary permit may not be issued under this section until preliminary record
258 checks regarding the applicant have been made with the National Crime Information Center
259 and the bureau to determine any criminal history.

260 (4) To facilitate a court's issuance of a temporary permit under Subsection
261 [78B-7-106\(3\)\(c\)](#) or [78B-7-404\(3\)\(c\)](#), the bureau shall, upon request by a petitioner for a
262 protective order:

263 (a) expeditiously conduct preliminary record checks regarding the petitioner with the
264 National Crime Information Center and the bureau to determine any criminal history; and

265 (b) (i) issue a preliminary record check certificate to a petitioner for whom the record
266 checks did not reveal any information that would prevent the petitioner from qualifying to be
267 issued a permit to carry a concealed firearm under Subsection [53-5-704\(2\)](#); or

268 (ii) issue a denial for a preliminary record check certificate to a petitioner for whom a
269 record check revealed information that would prevent the petitioner from qualifying to be
270 issued a permit to carry a concealed firearm under Subsection [53-5-704\(2\)](#).

271 ~~[(4)]~~ (5) (a) A temporary permit is valid only for a maximum of 90 days or any lesser
272 period specified by the bureau, or until a permit under Section [53-5-704](#) is issued to the holder
273 of the temporary permit, whichever period is shorter.

274 (b) The provisions of Subsections 76-10-504(1) and (2) and Section 76-10-505 do not
275 apply to ~~[a person]~~ an individual who is issued a temporary permit ~~[under this section]~~ during
276 the time period for which the temporary permit is valid.

277 (5) The bureau may deny, suspend, or revoke a temporary permit prior to expiration if
278 the commissioner determines:

279 (a) the circumstances justifying the temporary permit no longer exist; or

280 (b) the holder of the temporary permit does not meet the requirements for a permit
281 under Section 53-5-704.

282 (6) (a) The denial, suspension, or revocation of a temporary permit shall be in writing
283 and shall include the reasons for the action.

284 (b) The bureau's decision to deny, suspend, or revoke a temporary permit may not be
285 appealed to the board.

286 (c) Denial, suspension, or revocation under this subsection is final action for purposes
287 of judicial review under Section 63G-4-402.

288 Section 4. Section 53-5-707 is amended to read:

289 **53-5-707. Concealed firearm permit -- Fees -- Concealed Weapons Account.**

290 (1) (a) An applicant for a concealed firearm permit shall pay a fee of \$25 at the time of
291 filing an application.

292 (b) A nonresident applicant shall pay an additional \$10 for the additional cost of
293 processing a nonresident application.

294 (c) The bureau shall waive the initial fee for an applicant who is:

295 (i) a law enforcement officer under Section 53-13-103[-]; or

296 (ii) an individual who is, at the time of application, protected by a protective order
297 issued under Subsection 78B-7-106(1)(b) or 78B-7-404(1)(b).

298 (d) Concealed firearm permit renewal fees for active duty service members and the
299 spouse of an active duty service member shall be waived.

300 (2) (a) The renewal fee for the permit is \$20.

301 (b) A nonresident shall pay an additional \$5 for the additional cost of processing a
302 nonresidential renewal.

303 (3) The replacement fee for the permit is \$10.

304 (4) (a) The late fee for the renewal permit is \$7.50.

305 (b) As used in this section, "late fee" means the fee charged by the bureau for a renewal
306 submitted on a permit that has been expired for more than 30 days but less than one year.

307 (5) (a) There is created a restricted account within the General Fund known as the
308 "Concealed Weapons Account."

309 (b) The account shall be funded from fees collected under this section and Section
310 [53-5-707.5](#).

311 (c) Funds in the account shall be used to cover costs relating to the issuance of
312 concealed firearm permits under this part and may not be used for any other purpose.

313 (6) (a) The bureau may collect any fees charged by an outside agency for additional
314 services required by statute as a prerequisite for issuance of a permit.

315 (b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the
316 appropriate agency.

317 (7) The bureau shall make an annual report in writing to the Legislature's Law
318 Enforcement and Criminal Justice Interim Committee on the amount and use of the fees
319 collected under this section and Section [53-5-707.5](#).

320 Section 5. Section **78B-7-102** is amended to read:

321 **78B-7-102. Definitions.**

322 As used in this chapter:

323 (1) "Abuse" means intentionally or knowingly causing or attempting to cause a
324 cohabitant physical harm or intentionally or knowingly placing a cohabitant in reasonable fear
325 of imminent physical harm.

326 (2) "Bureau" means the Bureau of Criminal Identification created in Section [53-10-201](#)
327 within the Department of Public Safety.

328 ~~(2)~~ (3) (a) "Cohabitant" means an emancipated ~~[person]~~ individual pursuant to
329 Section [15-2-1](#) or a person who is 16 years of age or older who:

330 ~~(a)~~ (i) is or was a spouse of the other party;

331 ~~(b)~~ (ii) is or was living as if a spouse of the other party;

332 ~~(c)~~ (iii) is related by blood or marriage to the other party as the ~~[person's]~~ individual's
333 parent, grandparent, sibling, or any other ~~[person]~~ individual related to the ~~[person]~~ individual
334 by consanguinity or affinity to the second degree;

335 ~~(d)~~ (iv) has or had one or more children in common with the other party;

- 336 ~~[(e)]~~ (v) is the biological parent of the other party's unborn child;
- 337 ~~[(f)]~~ (vi) resides or has resided in the same residence as the other party; or
- 338 ~~[(g)]~~ (vii) is or was in a consensual sexual relationship with the other party.
- 339 ~~[(3)]~~ (b) ~~[Notwithstanding Subsection (2), "cohabitant"]~~ "Cohabitant" does not include:
- 340 ~~[(a)]~~ (i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or
- 341 ~~[(b)]~~ (ii) the relationship between natural, adoptive, step, or foster siblings who are
- 342 under 18 years of age.
- 343 (4) "Court clerk" means a district court clerk.
- 344 (5) "Domestic violence" means the same as that term is defined in Section [77-36-1](#).
- 345 (6) "Ex parte protective order" means an order issued without notice to the respondent
- 346 in accordance with this chapter.
- 347 (7) "Foreign protection order" means the same as that term is defined in Section
- 348 [78B-7-302](#).
- 349 (8) "Law enforcement unit" or "law enforcement agency" means any public agency
- 350 having general police power and charged with making arrests in connection with enforcement
- 351 of the criminal statutes and ordinances of this state or any political subdivision.
- 352 (9) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace
- 353 Officer Classifications.
- 354 (10) "Preliminary record check certificate" means the same as that term is defined in
- 355 Section [53-5-702](#).
- 356 ~~[(10)]~~ (11) "Protective order" means:
- 357 (a) an order issued pursuant to this chapter subsequent to a hearing on the petition, of
- 358 which the petitioner and respondent have been given notice in accordance with this chapter; or
- 359 (b) an order issued under Subsection [77-36-5.1\(6\)](#).
- 360 Section 6. Section **78B-7-105** is amended to read:
- 361 **78B-7-105. Forms for petitions and protective orders -- Assistance.**
- 362 (1) (a) The offices of the court clerk shall provide forms and nonlegal assistance to
- 363 persons seeking to proceed under this chapter.
- 364 (b) The Administrative Office of the Courts shall develop and adopt uniform forms for
- 365 petitions and orders for protection in accordance with the provisions of this chapter. That
- 366 office shall provide the forms to the clerk of each court authorized to issue protective orders.

367 The forms shall include:

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

371 (ii) a separate portion of the form for those provisions, the violation of which is a
372 criminal offense, and a separate portion for those provisions, the violation of which is a civil
373 violation, as provided in Subsection 78B-7-106(6);

374 (iii) language in the criminal provision portion stating violation of any criminal
375 provision is a class A misdemeanor, and language in the civil portion stating violation of or
376 failure to comply with a civil provision is subject to contempt proceedings;

377 (iv) a space for information the petitioner is able to provide to facilitate identification
378 of the respondent, such as social security number, driver license number, date of birth, address,
379 telephone number, and physical description;

380 (v) a space for the petitioner to request a specific period of time for the civil provisions
381 to be in effect, not to exceed 150 days, unless the petitioner provides in writing the reason for
382 the requested extension of the length of time beyond 150 days;

383 (vi) a statement advising the petitioner that when a minor child is included in an ex
384 parte protective order or a protective order, as part of either the criminal or the civil portion of
385 the order, the petitioner may provide a copy of the order to the principal of the school where the
386 child attends;

387 (vii) a statement advising the petitioner that if the respondent fails to return custody of
388 a minor child to the petitioner as ordered in a protective order, the petitioner may obtain from
389 the court a writ of assistance; ~~and~~

390 (viii) a space for information the petitioner is able to provide related to a proceeding
391 for an order for protection, civil litigation, a proceeding in juvenile court, and a criminal case
392 involving either party, including:

393 (A) the case name;

394 (B) the file number;

395 (C) the county and state of the proceeding; and

396 (D) the judge's name[-]; and

397 (ix) a space for the petitioner to indicate whether the petitioner would like to receive a

398 temporary permit to carry a concealed firearm and instructions for the petitioner to obtain a
399 preliminary record check certificate from the bureau before the protective order hearing.

400 (2) If [~~the person~~] an individual seeking to proceed under this chapter is not
401 represented by an attorney, it is the responsibility of the court clerk's office to provide:

402 (a) the forms adopted pursuant to Subsection (1);

403 (b) all other forms required to petition for an order for protection including, but not
404 limited to, forms for service;

405 (c) clerical assistance in filling out the forms and filing the petition, in accordance with
406 Subsection (1)(a), except that a court clerk's office may designate any other entity, agency, or
407 person to provide that service, but the court clerk's office is responsible to see that the service is
408 provided;

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

410 (e) a list of legal service organizations that may represent the petitioner in an action
411 brought under this chapter, together with the telephone numbers of those organizations; and

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

415 (3) A court clerk, constable, or law enforcement agency may not impose a charge for:

416 (a) filing a petition under this chapter;

417 (b) obtaining an ex parte protective order;

418 (c) obtaining copies, either certified or not certified, necessary for service or delivery to
419 law enforcement officials; or

420 (d) fees for service of a petition, ex parte protective order, or protective order.

421 (4) A petition for an order of protection shall be in writing and verified.

422 (5) (a) An order for protection shall be issued in the form adopted by the Administrative
423 Office of the Courts pursuant to Subsection (1).

424 (b) A protective order issued, except orders issued ex parte, shall include the following
425 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. Sec. 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 (c) A protective order issued in accordance with this part, including protective orders
432 issued ex parte and except for a continuous protective order issued under Subsection
433 [77-36-5.1\(6\)](#), shall include the following language:

434 "NOTICE TO PETITIONER: The court may amend or dismiss a protective order after
435 one year if it finds that the basis for the issuance of the protective order no longer exists and the
436 petitioner has repeatedly acted in contravention of the protective order provisions to
437 intentionally or knowingly induce the respondent to violate the protective order, demonstrating
438 to the court that the petitioner no longer has a reasonable fear of the respondent."

439 Section 7. Section **78B-7-106** is amended to read:

440 **78B-7-106. Protective orders -- Ex parte protective orders -- Modification of**
441 **orders -- Service of process -- Duties of the court.**

442 (1) If it appears from a petition for an order for protection or a petition to modify an
443 order for protection that domestic violence or abuse has occurred, that there is a substantial
444 likelihood domestic violence or abuse will occur, or that a modification of an order for
445 protection is required, a court may:

446 (a) without notice, immediately issue an order for protection ex parte or modify an
447 order for protection ex parte as it considers necessary to protect the petitioner and all parties
448 named to be protected in the petition; or

449 (b) upon notice, issue an order for protection or modify an order after a hearing,
450 regardless of whether the respondent appears.

451 (2) A court may grant the following relief without notice in an order for protection or a
452 modification issued ex parte:

453 (a) enjoin the respondent from threatening to commit domestic violence or abuse,
454 committing domestic violence or abuse, or harassing the petitioner or any designated family or
455 household member;

456 (b) prohibit the respondent from telephoning, contacting, or otherwise communicating
457 with the petitioner or any designated family or household member, directly or indirectly, with
458 the exception of any parent-time provisions in the ex parte order;

459 (c) subject to Subsection (2)(e), prohibit the respondent from being within a specified

460 distance of the petitioner;

461 (d) subject to Subsection (2)(e), order that the respondent is excluded from and is to
462 stay away from the following places and their premises:

463 (i) the petitioner's residence or any designated family or household member's residence;

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

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

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

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

471 (e) if the petitioner or designated family or household member attends the same school
472 as the respondent, is employed at the same place of employment as the respondent, or attends
473 the same place of worship, the court:

474 (i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent
475 from the respondent's school, place of employment, or place of worship; and

476 (ii) may enter an order governing the respondent's conduct at the respondent's school,
477 place of employment, or place of worship;

478 (f) upon finding that the respondent's use or possession of a weapon may pose a serious
479 threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a
480 firearm or other weapon specified by the court;

481 (g) order possession and use of an automobile and other essential personal effects, and
482 direct the appropriate law enforcement officer to accompany the petitioner to the residence of
483 the parties to ensure that the petitioner is safely restored to possession of the residence,
484 automobile, and other essential personal effects, or to supervise the petitioner's or respondent's
485 removal of personal belongings;

486 (h) order the respondent to maintain an existing wireless telephone contract or account;

487 (i) grant to the petitioner or someone other than the respondent temporary custody of a
488 minor child of the parties;

489 (j) order the appointment of an attorney guardian ad litem under Sections [78A-2-703](#)
490 and [78A-6-902](#);

491 (k) order any further relief that the court considers necessary to provide for the safety
492 and welfare of the petitioner and any designated family or household member; and

493 (l) if the petition requests child support or spousal support, at the hearing on the
494 petition order both parties to provide verification of current income, including year-to-date pay
495 stubs or employer statements of year-to-date or other period of earnings, as specified by the
496 court, and complete copies of tax returns from at least the most recent year.

497 (3) A court may grant the following relief in an order for protection or a modification
498 of an order after notice and hearing, regardless of whether the respondent appears:

499 (a) grant the relief described in Subsection (2); [~~and~~]

500 (b) specify arrangements for parent-time of any minor child by the respondent and
501 require supervision of that parent-time by a third party or deny parent-time if necessary to
502 protect the safety of the petitioner or child[-]; and

503 (c) grant the petitioner a temporary permit to carry a concealed firearm, in accordance
504 with Section 53-5-705, if the petitioner, at or before the protective order hearing, files with the
505 court a preliminary record check certificate.

506 (4) In addition to the relief granted under Subsection (3), the court may order the
507 transfer of a wireless telephone number in accordance with Section 77-36-5.3.

508 (5) Following the protective order hearing, the court shall:

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

510 (b) make reasonable efforts to ensure that the order for protection is understood by the
511 petitioner, and the respondent, if present;

512 (c) transmit electronically, by the end of the next business day after the order is issued,
513 a copy of the order for protection to the local law enforcement agency or agencies designated
514 by the petitioner; and

515 (d) transmit a copy of the order to the statewide domestic violence network described
516 in Section 78B-7-113.

517 (6) (a) Each protective order shall include two separate portions, one for provisions, the
518 violation of which are criminal offenses, and one for provisions, the violation of which are civil
519 violations, as follows:

520 (i) criminal offenses are those under Subsections (2)(a) through (e), and under
521 Subsection (3)(a) as it refers to Subsections (2)(a) through (e); and

522 (ii) civil offenses are those under Subsections (2)(f), (h), and (i), and Subsection (3)(a)
523 as it refers to Subsections (2)(f), (h), and (i).

524 (b) The criminal provision portion shall include a statement that violation of any
525 criminal provision is a class A misdemeanor.

526 (c) The civil provision portion shall include a notice that violation of or failure to
527 comply with a civil provision is subject to contempt proceedings.

528 (7) The protective order shall include:

529 (a) a designation of a specific date, determined by the court, when the civil portion of
530 the protective order either expires or is scheduled for review by the court, which date may not
531 exceed 150 days after the date the order is issued, unless the court indicates on the record the
532 reason for setting a date beyond 150 days;

533 (b) information the petitioner is able to provide to facilitate identification of the
534 respondent, such as social security number, driver license number, date of birth, address,
535 telephone number, and physical description; and

536 (c) a statement advising the petitioner that:

537 (i) after two years from the date of issuance of the protective order, a hearing may be
538 held to dismiss the criminal portion of the protective order;

539 (ii) the petitioner should, within the 30 days prior to the end of the two-year period,
540 advise the court of the petitioner's current address for notice of any hearing; and

541 (iii) the address provided by the petitioner will not be made available to the respondent.

542 (8) Child support and spouse support orders issued as part of a protective order are
543 subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income
544 Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non
545 IV-D Cases, except when the protective order is issued ex parte.

546 (9) (a) The county sheriff that receives the order from the court, pursuant to Subsection
547 (6)(a), shall provide expedited service for orders for protection issued in accordance with this
548 chapter, and shall transmit verification of service of process, when the order has been served, to
549 the statewide domestic violence network described in Section [78B-7-113](#).

550 (b) This section does not prohibit any law enforcement agency from providing service
551 of process if that law enforcement agency:

552 (i) has contact with the respondent and service by that law enforcement agency is

553 possible; or

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

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

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

562 (11) A court may modify or vacate an order of protection or any provisions in the order
563 after notice and hearing, except that the criminal provisions of a protective order may not be
564 vacated within two years of issuance unless the petitioner:

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

569 (b) submits a verified affidavit, stating agreement to the vacation of the criminal
570 provisions of the protective order.

571 (12) A protective order may be modified without a showing of substantial and material
572 change in circumstances.

573 (13) Insofar as the provisions of this chapter are more specific than the Utah Rules of
574 Civil Procedure, regarding protective orders, the provisions of this chapter govern.

575 Section 8. Section **78B-7-404** is amended to read:

576 **78B-7-404. Dating violence orders -- Ex parte dating violence protective orders --**
577 **Modification of orders -- Service of process -- Duties of the court.**

578 (1) If it appears from a petition for a protective order or a petition to modify an existing
579 protective order that a dating partner of the petitioner has abused or committed dating violence
580 against the petitioner, the district court may:

581 (a) without notice, immediately issue an ex parte dating violence protective order
582 against the dating partner or modify an existing dating protective order ex parte if necessary to
583 protect the petitioner and all parties named in the petition; or

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

586 (2) A district court may grant the following relief without notice in a dating violence
587 protective order or a modification issued ex parte:

588 (a) prohibit the respondent from threatening to commit or committing dating violence
589 or abuse against the petitioner and any designated family or household member described in the
590 protective order;

591 (b) prohibit the respondent from telephoning, contacting, or otherwise communicating
592 with the petitioner or any designated family or household member, directly or indirectly;

593 (c) order that the respondent:

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

595 (ii) except as provided in Subsection (4), stay away from the petitioner's:

596 (A) school and the school's premises; and

597 (B) place of employment and its premises; and

598 (iii) stay away from any specified place frequented by the petitioner or any designated
599 family or household member;

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

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

603 (3) A court may grant the following relief in a dating violence protective order or a
604 modification of a dating violence protective order, after notice and a hearing, regardless of
605 whether the respondent appears:

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

607 (b) except as provided in Subsection (5), upon finding that the respondent's use or
608 possession of a weapon poses a serious threat of harm to the petitioner or any designated family
609 or household member, prohibit the respondent from purchasing, using, or possessing a weapon
610 specified by the court~~[-]; and~~

611 (c) a temporary permit to carry a concealed firearm, in accordance with Section
612 53-5-705, if the petitioner, at or before the protective order hearing, files with the court a
613 preliminary record check certificate.

614 (4) If the petitioner or designated family or household member attends the same school

615 as the respondent, or is employed at the same place of employment as the respondent, the
616 district court:

617 (a) may not enter an order under Subsection (2)(c)(ii) that excludes the respondent
618 from the respondent's school or place of employment; and

619 (b) may enter an order governing the respondent's conduct at the respondent's school or
620 place of employment.

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

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

624 (b) unless the petition establishes:

625 (i) by a preponderance of the evidence that the respondent has committed abuse or
626 dating violence against the petitioner; and

627 (ii) by clear and convincing evidence that the respondent's use or possession of a
628 firearm poses a serious threat of harm to petitioner or the designated family or household
629 member.

630 (6) Any protective order issued under this part shall expire 180 days after the day on
631 which the order is issued.

632 (7) After the district court issues a dating violence protective order, the district court
633 shall:

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

635 (b) make reasonable efforts at the hearing to ensure that the dating violence protective
636 order is understood by the petitioner and the respondent, if present;

637 (c) transmit electronically, by the end of the business day after the day on which the
638 order is issued, a copy of the dating violence protective order to the local law enforcement
639 agency designated by the petitioner; and

640 (d) transmit a copy of the protective order issued under this part in the same manner as
641 described in Section [78B-7-113](#).

642 (8) (a) The county sheriff that receives the order from the court, pursuant to Subsection
643 (7)(a), shall:

644 (i) provide expedited service for protective orders issued in accordance with this part;

645 and

646 (ii) after the order has been served, transmit verification of service of process to the
647 statewide network described in Section 78B-7-110.

648 (b) This section does not prohibit another law enforcement agency from providing
649 service of process if that law enforcement agency:

650 (i) has contact with the respondent and service by that law enforcement agency is
651 possible; or

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

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

657 (10) A district court may modify or vacate a protective order under this part after notice
658 and hearing, if the petitioner:

659 (a) is personally served with notice of the hearing, as provided in the Utah Rules of
660 Civil Procedure, and appears before the court to give specific consent to the modification or
661 vacation of the provisions of the protective order; or

662 (b) submits an affidavit agreeing to the modification or vacation of the provisions of
663 the protective order.

664 (11) To the extent that the provisions of this part are more specific than the Utah Rules
665 of Civil Procedure regarding protective orders, the provisions of this part govern.