

Representative Susan Duckworth proposes the following substitute bill:

PROHIBITED PERSONS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Susan Duckworth

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the requirements for disposition of criminal domestic violence cases and provides notification requirements when a prohibited person attempts to purchase a firearm.

Highlighted Provisions:

This bill:

- requires a court to impose a protective order on a perpetrator of domestic violence as a condition of probation;
- prohibits the perpetrator from possessing a firearm under state and federal law;
- requires the Bureau of Criminal Identification to inform local law enforcement when a prohibited person attempts to purchase a weapon from a firearms dealer; and
- makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 26 [76-10-526](#), as last amended by Laws of Utah 2018, Chapter 417
- 27 [77-36-1](#), as last amended by Laws of Utah 2018, Chapter 255
- 28 [77-36-5](#), as last amended by Laws of Utah 2017, Chapter 332
- 29 [77-36-5.1](#), as last amended by Laws of Utah 2018, Chapter 124
- 30 [78B-7-102](#), as last amended by Laws of Utah 2018, Chapter 255
- 31 [78B-7-105](#), as last amended by Laws of Utah 2018, Chapters 124 and 255
- 32 [78B-7-115](#), as last amended by Laws of Utah 2018, Chapter 255

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

35 Section 1. Section **76-10-526** is amended to read:

36 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**
37 **Exemption for concealed firearm permit holders and law enforcement officers.**

38 (1) For purposes of this section, "valid permit to carry a concealed firearm" does not
39 include a temporary permit issued under Section [53-5-705](#).

40 (2) (a) To establish personal identification and residence in this state for purposes of
41 this part, a dealer shall require an individual receiving a firearm to present one photo
42 identification on a form issued by a governmental agency of the state.

43 (b) A dealer may not accept a driving privilege card issued under Section [53-3-207](#) as
44 proof of identification for the purpose of establishing personal identification and residence in
45 this state as required under this Subsection (2).

46 (3) (a) A criminal history background check is required for the sale of a firearm by a
47 licensed firearm dealer in the state.

48 (b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms
49 Licensee.

50 (4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a
51 criminal background check, on a form provided by the bureau.

52 (b) The form shall contain the following information:

53 (i) the dealer identification number;

54 (ii) the name and address of the individual receiving the firearm;

55 (iii) the date of birth, height, weight, eye color, and hair color of the individual
56 receiving the firearm; and

57 (iv) the social security number or any other identification number of the individual
58 receiving the firearm.

59 (5) (a) The dealer shall send the information required by Subsection (4) to the bureau
60 immediately upon its receipt by the dealer.

61 (b) A dealer may not sell or transfer a firearm to an individual until the dealer has
62 provided the bureau with the information in Subsection (4) and has received approval from the
63 bureau under Subsection (7).

64 (6) The dealer shall make a request for criminal history background information by
65 telephone or other electronic means to the bureau and shall receive approval or denial of the
66 inquiry by telephone or other electronic means.

67 (7) When the dealer calls for or requests a criminal history background check, the
68 bureau shall:

69 (a) review the criminal history files, including juvenile court records, to determine if
70 the individual is prohibited from purchasing, possessing, or transferring a firearm by state or
71 federal law;

72 (b) inform the dealer that:

73 (i) the records indicate the individual is prohibited; or

74 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;

75 (c) provide the dealer with a unique transaction number for that inquiry; and

76 (d) provide a response to the requesting dealer during the call for a criminal
77 background check, or by return call, or other electronic means, without delay, except in case of
78 electronic failure or other circumstances beyond the control of the bureau, the bureau shall
79 advise the dealer of the reason for the delay and give the dealer an estimate of the length of the
80 delay.

81 (8) (a) The bureau may not maintain any records of the criminal history background
82 check longer than 20 days from the date of the dealer's request, if the bureau determines that
83 the individual receiving the firearm is not prohibited from purchasing, possessing, or
84 transferring the firearm under state or federal law.

85 (b) [~~However~~] Notwithstanding Subsection (8)(a), the bureau shall maintain a log of
86 requests containing the dealer's federal firearms number, the transaction number, and the
87 transaction date for a period of 12 months.

88 (9) If the criminal history background check discloses information indicating that the
89 individual attempting to purchase the firearm is prohibited from purchasing, possessing, or
90 transferring a firearm, the bureau shall:

91 (a) within 30 minutes of determining the purchaser is prohibited from purchasing,
92 possessing, or transferring a firearm, and before informing the dealer as described in
93 Subsection (7)(b), notify the law enforcement agency with jurisdiction where the dealer is
94 located; and

95 (b) inform the law enforcement agency in the jurisdiction where the individual resides.

96 (10) If an individual is denied the right to purchase a firearm under this section, the
97 individual may review the individual's criminal history information and may challenge or
98 amend the information as provided in Section 53-10-108.

99 (11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah
100 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all
101 records provided by the bureau under this part are in conformance with the requirements of the
102 Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

103 (12) (a) A dealer shall collect a criminal history background check fee for the sale of a
104 firearm under this section. This fee remains in effect until changed by the bureau through the
105 process in accordance with Section 63J-1-504.

106 (b) (i) The dealer shall forward at one time all fees collected for criminal history
107 background checks performed during the month to the bureau by the last day of the month
108 following the sale of a firearm.

109 (ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover
110 the cost of administering and conducting the criminal history background check program.

111 (13) An individual with a concealed firearm permit issued under Title 53, Chapter 5,
112 Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee
113 required in this section for the purchase of a firearm if:

114 (a) the individual presents the individual's concealed firearm permit to the dealer prior
115 to purchase of the firearm; and

116 (b) the dealer verifies with the bureau that the individual's concealed firearm permit is
117 valid.

118 (14) (a) A law enforcement officer, as defined in Section 53-13-103, is exempt from

119 the background check fee required in this section for the purchase of a personal firearm to be
120 carried while off-duty if the law enforcement officer verifies current employment by providing
121 a letter of good standing from the officer's commanding officer and current law enforcement
122 photo identification.~~[This section]~~

123 (b) Subsection (14)(a) may only be used by a law enforcement officer to purchase a
124 personal firearm once in a 24-month period.

125 Section 2. Section **77-36-1** is amended to read:

126 **77-36-1. Definitions.**

127 As used in this chapter:

- 128 (1) "Cohabitant" means the same as that term is defined in Section [78B-7-102](#).
129 (2) "Department" means the Department of Public Safety.
130 (3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter
131 3, Divorce.
132 (4) "Domestic violence" or "domestic violence offense" means any criminal offense
133 involving violence or physical harm or threat of violence or physical harm, or any attempt,
134 conspiracy, or solicitation to commit a criminal offense involving violence or physical harm,
135 when committed by one cohabitant against another. "Domestic violence" or "domestic
136 violence offense" also means commission or attempt to commit, any of the following offenses
137 by one cohabitant against another:
138 (a) aggravated assault, as described in Section [76-5-103](#);
139 (b) assault, as described in Section [76-5-102](#);
140 (c) criminal homicide, as described in Section [76-5-201](#);
141 (d) harassment, as described in Section [76-5-106](#);
142 (e) electronic communication harassment, as described in Section [76-9-201](#);
143 (f) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections
144 [76-5-301](#), [76-5-301.1](#), and [76-5-302](#);
145 (g) mayhem, as described in Section [76-5-105](#);
146 (h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and
147 Section [76-5b-201](#), Sexual exploitation of a minor -- Offenses;
148 (i) stalking, as described in Section [76-5-106.5](#);
149 (j) unlawful detention or unlawful detention of a minor, as described in Section

- 150 76-5-304;
- 151 (k) violation of a protective order or ex parte protective order, as described in Section
- 152 76-5-108;
- 153 (l) any offense against property described in Title 76, Chapter 6, Part 1, Property
- 154 Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6,
- 155 Part 3, Robbery;
- 156 (m) possession of a deadly weapon with criminal intent, as described in Section
- 157 76-10-507;
- 158 (n) discharge of a firearm from a vehicle, near a highway, or in the direction of any
- 159 person, building, or vehicle, as described in Section 76-10-508;
- 160 (o) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly
- 161 conduct is the result of a plea agreement in which the defendant was originally charged with a
- 162 domestic violence offense otherwise described in this Subsection (4), except that a conviction
- 163 of disorderly conduct as a domestic violence offense, in the manner described in this
- 164 Subsection (4)(o), does not constitute a misdemeanor crime of domestic violence under 18
- 165 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;
- 166 (p) child abuse, as described in Section 76-5-109.1;
- 167 (q) threatening use of a dangerous weapon, as described in Section 76-10-506;
- 168 (r) threatening violence, as described in Section 76-5-107;
- 169 (s) tampering with a witness, as described in Section 76-8-508;
- 170 (t) retaliation against a witness or victim, as described in Section 76-8-508.3;
- 171 (u) unlawful distribution of an intimate image, as described in Section 76-5b-203;
- 172 (v) sexual battery, as described in Section 76-9-702.1;
- 173 (w) voyeurism, as described in Section 76-9-702.7;
- 174 (x) damage to or interruption of a communication device, as described in Section
- 175 76-6-108; or
- 176 (y) an offense described in Section 77-20-3.5.
- 177 (5) "Jail release agreement" means the same as that term is defined in Section
- 178 77-20-3.5.
- 179 (6) "Jail release court order" means the same as that term is defined in Section
- 180 77-20-3.5.

181 (7) "Marital status" means married and living together, divorced, separated, or not
182 married.

183 (8) "Married and living together" means a couple whose marriage was solemnized
184 under Section 30-1-4 or 30-1-6 and who are living in the same residence.

185 (9) "Not married" means any living arrangement other than married and living together,
186 divorced, or separated.

187 (10) "Protective order" includes an order issued under Subsection 77-36-5.1~~[(6)]~~(7).

188 (11) "Pretrial protective order" means a written order:

189 (a) specifying and limiting the contact a person who has been charged with a domestic
190 violence offense may have with an alleged victim or other specified individuals; and

191 (b) specifying other conditions of release pursuant to Subsection 77-20-3.5(3),
192 Subsection 77-36-2.6(3), or Section 77-36-2.7, pending trial in the criminal case.

193 (12) "Sentencing protective order" means a written order of the court as part of
194 sentencing in a domestic violence case that limits the contact a person who has been convicted
195 of a domestic violence offense may have with a victim or other specified individuals pursuant
196 to Sections 77-36-5 and 77-36-5.1.

197 (13) "Separated" means a couple who have had their marriage solemnized under
198 Section 30-1-4 or 30-1-6 and who are not living in the same residence.

199 (14) "Victim" means a cohabitant who has been subjected to domestic violence.
200 Section 3. Section 77-36-5 is amended to read:

201 **77-36-5. Sentencing -- Restricting contact with victim -- Electronic monitoring --**
202 **Counseling -- Cost assessed against defendant -- Sentencing protective order --**
203 **Continuous protective order.**

204 (1) (a) When a defendant is found guilty of a crime involving domestic violence and a
205 condition of the sentence restricts the defendant's contact with the victim, a sentencing
206 protective order may be issued under Subsection 77-36-5.1~~[(2)]~~(3) for the length of the
207 defendant's probation or a continuous protective order may be issued under Subsection
208 77-36-5.1~~[(6)]~~(7).

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

211 (ii) The court shall transmit the sentencing protective order or continuous protective

212 order to the statewide domestic violence network.

213 (c) Violation of a sentencing protective order or continuous protective order issued
214 pursuant to this Subsection (1) is a class A misdemeanor.

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

218 (3) The court may also require the defendant to pay all or part of the costs of
219 counseling incurred by the victim and any children affected by or exposed to the domestic
220 violence offense, as well as the costs for the defendant's own counseling.

221 (4) The court shall:

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

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

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

229 Section 4. Section 77-36-5.1 is amended to read:

230 **77-36-5.1. Conditions of probation for person convicted of domestic violence**
231 **offense -- Continuous protective orders.**

232 (1) Before any perpetrator who has been convicted of a domestic violence offense may
233 be placed on probation, the court shall consider the safety and protection of the victim and any
234 member of the victim's family or household.

235 (2) The court [~~may~~] shall condition probation or a plea in abeyance on the perpetrator's
236 compliance with one or more orders of the court, which [~~may~~] shall include a sentencing
237 protective order:

238 (a) prohibiting the perpetrator from purchasing, using, or possessing a firearm,
239 ammunition, or other specified weapon;

240 (b) requiring the perpetrator to:

241 (i) surrender or dispose of any firearm, specified weapon, or ammunition the
242 perpetrator owns or possesses, so the perpetrator no longer has possession or control of a

243 firearm, specified weapon, or ammunition; and
244 (ii) certify compliance with Subsection (2)(b)(i) by affidavit filed with the court within
245 72 hours of the imposition of the court's order; and
246 (c) if a conviction in the case will subject the defendant to the prohibitions of 18
247 U.S.C. Sec. 922(g), notifying the perpetrator that the perpetrator is subject to 18 U.S.C. Sec.
248 922(g) and may not:
249 (i) lawfully ship or transport in interstate or foreign commerce, or possess in or
250 affecting commerce, any firearm or ammunition; or
251 (ii) receive any firearm or ammunition that has been shipped or transported in interstate
252 or foreign commerce.
253 (3) In addition to the conditions described in Subsection (2), the court may also issue
254 an order:
255 (a) enjoining the perpetrator from threatening to commit or committing acts of
256 domestic violence against the victim or other family or household member;
257 (b) prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise
258 communicating with the victim, directly or indirectly;
259 (c) requiring the perpetrator to stay away from the victim's residence, school, place of
260 employment, and the premises of any of these, or a specified place frequented regularly by the
261 victim or any designated family or household member;
262 (d) prohibiting the perpetrator from possessing or consuming alcohol or controlled
263 substances;
264 [~~(e) prohibiting the perpetrator from purchasing, using, or possessing a firearm or other~~
265 ~~specified weapon;]~~
266 [~~(f) directing the perpetrator to surrender any weapons the perpetrator owns or~~
267 ~~possesses;]~~
268 [~~(g)~~] (e) directing the perpetrator to participate in and complete, to the satisfaction of
269 the court, a program of intervention for perpetrators, treatment for alcohol or substance abuse,
270 or psychiatric or psychological treatment;
271 [~~(h)~~] (f) directing the perpetrator to pay restitution to the victim, enforcement of which
272 shall be in accordance with Chapter 38a, Crime Victims Restitution Act; and
273 [~~(i)~~] (g) imposing any other condition necessary to protect the victim and any other

274 designated family or household member or to rehabilitate the perpetrator.

275 ~~[(3)]~~ (4) The perpetrator is responsible for the costs of any condition of probation,
276 according to the perpetrator's ability to pay.

277 ~~[(4)]~~ (5) (a) Adult Probation and Parole, or other provider, shall immediately report to
278 the court and notify the victim of any offense involving domestic violence committed by the
279 perpetrator, the perpetrator's failure to comply with any condition imposed by the court, and
280 any violation of any sentencing criminal protective order issued by the court.

281 (b) Notification of the victim under Subsection ~~[(4)]~~ (5)(a) shall consist of a good faith
282 reasonable effort to provide prompt notification, including mailing a copy of the notification to
283 the last-known address of the victim.

284 ~~[(5)]~~ (6) The court shall transmit all dismissals, terminations, and expirations of
285 pretrial and sentencing criminal protective orders issued by the court to the statewide domestic
286 violence network.

287 ~~[(6)]~~ (7) (a) Because of the serious, unique, and highly traumatic nature of domestic
288 violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased
289 risk of continued acts of violence subsequent to the release of a perpetrator who is convicted of
290 domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the
291 issuance of continuous protective orders under this Subsection ~~[(6)]~~ (7) because of the need to
292 provide ongoing protection for the victim and to be consistent with the purposes of protecting
293 victims' rights under Chapter 37, Victims' Rights, and Chapter 38, Rights of Crime Victims
294 Act, and Article I, Section 28 of the Utah Constitution.

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

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

301 (ii) If the perpetrator requests a hearing under this Subsection ~~[(6)]~~ (7)(c), the court
302 shall hold the hearing at the time determined by the court. The continuous protective order
303 shall be in effect while the hearing is being scheduled and while the hearing is pending.

304 (d) A continuous protective order is permanent in accordance with this Subsection ~~[(6)]~~

305 (7)(d) and may grant the following relief:

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

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

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

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

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

317 (e) A continuous protective order may be modified or dismissed only if the court
318 determines by clear and convincing evidence that all requirements of this Subsection [~~(6)~~] (7)
319 have been met and the victim does not have a reasonable fear of future harm or abuse.

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

322 (g) Violation of a continuous protective order issued pursuant to this Subsection [~~(6)~~]
323 (7) is a class A misdemeanor, is a domestic violence offense under Section 77-36-1, and is
324 subject to increased penalties in accordance with Section 77-36-1.1.

325 (h) In addition to the process of issuing a continuous protective order described in
326 Subsection [~~(6)~~] (7)(a), a district court may issue a continuous protective order at any time if
327 the victim files a petition with the district court, and after notice and hearing the district court
328 finds that a continuous protective order is necessary to protect the victim.

329 [~~(7)~~] (8) (a) Before release of a person who is subject to a continuous protective order
330 issued under Subsection [~~(6)~~] (7), the victim shall receive notice of the imminent release by the
331 law enforcement agency that is releasing the person who is subject to the continuous protective
332 order:

333 (i) if the victim has provided the law enforcement agency contact information; and

334 (ii) in accordance with Section 64-13-14.7, if applicable.

335 (b) Before release, the law enforcement agency shall notify in writing the person being

336 released that a violation of the continuous protective order issued at the time of conviction or
337 sentencing continues to apply, and that a violation of the continuous protective order is a class
338 A misdemeanor, is a separate domestic violence offense under Section 77-36-1, and is subject
339 to increased penalties in accordance with Section 77-36-1.1.

340 ~~[(8)]~~ (9) In addition to a protective order issued under this section, the court may issue
341 a separate order relating to the transfer of a wireless telephone number in accordance with
342 Section 77-36-5.3.

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

344 **78B-7-102. Definitions.**

345 As used in this chapter:

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

349 (2) "Cohabitant" means an emancipated person pursuant to Section 15-2-1 or a person
350 who is 16 years of age or older who:

351 (a) is or was a spouse of the other party;

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

353 (c) is related by blood or marriage to the other party as the person's parent, grandparent,
354 sibling, or any other person related to the person by consanguinity or affinity to the second
355 degree;

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

357 (e) is the biological parent of the other party's unborn child;

358 (f) resides or has resided in the same residence as the other party; or

359 (g) is or was in a consensual sexual relationship with the other party.

360 (3) Notwithstanding Subsection (2), "cohabitant" does not include:

361 (a) the relationship of natural parent, adoptive parent, or step-parent to a minor; or

362 (b) the relationship between natural, adoptive, step, or foster siblings who are under 18
363 years of age.

364 (4) "Court clerk" means a district court clerk.

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

366 (6) "Ex parte protective order" means an order issued without notice to the respondent

367 in accordance with this chapter.

368 (7) "Foreign protection order" means the same as that term is defined in Section
369 78B-7-302.

370 (8) "Law enforcement unit" or "law enforcement agency" means any public agency
371 having general police power and charged with making arrests in connection with enforcement
372 of the criminal statutes and ordinances of this state or any political subdivision.

373 (9) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace
374 Officer Classifications.

375 (10) "Protective order" means:

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

378 (b) an order issued under Subsection 77-36-5.1~~(6)~~(7).

379 Section 6. Section 78B-7-105 is amended to read:

380 **78B-7-105. Forms for petitions and protective orders -- Assistance.**

381 (1) (a) The offices of the court clerk shall provide forms and nonlegal assistance to
382 persons seeking to proceed under this chapter.

383 (b) The Administrative Office of the Courts shall develop and adopt uniform forms for
384 petitions and orders for protection in accordance with the provisions of this chapter. That
385 office shall provide the forms to the clerk of each court authorized to issue protective orders.
386 The forms shall include:

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

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

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

396 (iv) a space for information the petitioner is able to provide to facilitate identification
397 of the respondent, such as social security number, driver license number, date of birth, address,

398 telephone number, and physical description;

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

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

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

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

- 412 (A) the case name;
- 413 (B) the file number;
- 414 (C) the county and state of the proceeding; and
- 415 (D) the judge's name.

416 (2) If the person seeking to proceed under this chapter is not represented by an
417 attorney, it is the responsibility of the court clerk's office to provide:

- 418 (a) the forms adopted pursuant to Subsection (1);
- 419 (b) all other forms required to petition for an order for protection including, but not
420 limited to, forms for service;

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

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

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

428 (f) written information regarding the procedure for transporting a jailed or imprisoned

429 respondent to the protective order hearing, including an explanation of the use of transportation
430 order forms when necessary.

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

432 (a) filing a petition under this chapter;

433 (b) obtaining an ex parte protective order;

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

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

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

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

440 (b) A protective order issued, except orders issued ex parte, shall include the following
441 language:

442 "Respondent was afforded both notice and opportunity to be heard in the hearing that
443 gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322,
444 108 Stat. 1796, 18 U.S.C. Sec. 2265, this order is valid in all the United States, the District of
445 Columbia, tribal lands, and United States territories. This order complies with the Uniform
446 Interstate Enforcement of Domestic Violence Protection Orders Act."

447 (c) A protective order issued in accordance with this part, including protective orders
448 issued ex parte and except for a continuous protective order issued under Subsection

449 [77-36-5.1\[\(6\)\]\(7\)](#), shall include the following language:

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

455 Section 7. Section **78B-7-115** is amended to read:

456 **78B-7-115. Dismissal of protective order -- Expiration.**

457 (1) Except as provided in Subsections (6) and (8), a protective order that has been in
458 effect for at least two years may be dismissed if the court determines that the petitioner no

459 longer has a reasonable fear of future harm or abuse. In determining whether the petitioner no

460 longer has a reasonable fear of future harm or abuse, the court shall consider the following
461 factors:

462 (a) whether the respondent has complied with treatment recommendations related to
463 domestic violence, entered at the time the protective order was entered;

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

465 (c) claims of harassment, abuse, or violence by either party during the time the
466 protective order was in force;

467 (d) counseling or therapy undertaken by either party;

468 (e) impact on the well-being of any minor children of the parties, if relevant; and

469 (f) any other factors the court considers relevant to the case before it.

470 (2) Except as provided in Subsections (6) and (8), the court may amend or dismiss a
471 protective order issued in accordance with this part that has been in effect for at least one year
472 if it finds that:

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

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

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

478 (d) the respondent has not been convicted of a protective order violation or any crime
479 of violence subsequent to the issuance of the protective order, and there are no unresolved
480 charges involving violent conduct still on file with the court.

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

483 (a) in bad faith; or

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

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

488 (5) Except as provided in Subsection (8), if a divorce proceeding is pending between
489 parties to a protective order action, the protective order shall be dismissed when the court
490 issues a decree of divorce for the parties if:

491 (a) the respondent files a motion to dismiss a protective order in both the divorce
492 action and the protective order action and personally serves the petitioner; and

493 (b) (i) the parties stipulate in writing or on the record to dismiss the protective order; or

494 (ii) based on evidence at the divorce trial, the court determines that the petitioner no
495 longer has a reasonable fear of future harm or abuse after considering the factors listed in
496 Subsections (1)(a) through (f).

497 (6) (a) Notwithstanding Subsection (1) or (2) and subject to Subsection (8), a
498 protective order that has been entered under this chapter concerning a petitioner and a
499 respondent who are divorced shall automatically expire, subject to Subsection (6)(b), 10 years
500 from the day on which the protective order is entered.

501 (b) The protective order shall automatically expire, as described in Subsection (6)(a),
502 unless the petitioner files a motion before expiration of the protective order and demonstrates
503 that:

504 (i) the petitioner has a reasonable fear of future harm or abuse, as described in
505 Subsection (1); or

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

508 (c) If the court grants the motion under Subsection (6)(b), the court shall set a new date
509 on which the protective order expires. The protective order will expire unless the petitioner
510 files a motion described in Subsection (6)(b) to extend the protective order.

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

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

513 (b) transmit a copy of the order of dismissal to the statewide domestic violence
514 network as described in Section [78B-7-113](#).

515 (8) Notwithstanding the other provisions of this section, a continuous protective order
516 may not be modified or dismissed except as provided in Subsection [77-36-5.1](#)~~(6)~~(7).