

HB0255S01 compared with HB0255

~~deleted text~~ shows text that was in HB0255 but was deleted in HB0255S01.

inserted text shows text that was not in HB0255 but was inserted into HB0255S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative V. Lowry Snow proposes the following substitute bill:

PROTECTIVE ORDER REVISIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses protective orders.

Highlighted Provisions:

This bill:

▶ modifies definitions:

- ▶ requires the Administrative Office of the Courts to include an expiration date on a civil protective order form;
- ▶ modifies the time frame within which:
 - an objection to certain civil protective orders must be filed; and
 - certain hearings on a civil protective order must be held;
- ▶ modifies the circumstances under which a violation of a civil protective order is a civil offense;

HB0255S01 compared with HB0255

- ▶ modifies the circumstances under which a provision of a cohabitant abuse protective order may be modified or dismissed during a divorce, parentage, custody, or guardianship proceeding;
 - ▶ modifies the day on which a civil provision of a cohabitant abuse protective order expires;
 - ▶ adds sexual battery as a qualifying offense for protective orders;
 - ▶ provides that jail release agreements and other measures can apply when ~~fa~~ person an individual is issued a citation and not arrested;
 - ▶ modifies the type of contact prohibited under jail release agreements and orders;
 - ▶ establishes procedures for a victim's waiver of jail release agreement conditions;
 - ▶ prohibits issuance of a continuous protective order against a minor;
 - ▶ modifies the expiration date for a criminal protective order issued against a minor;
- and
- ▶ makes technical and conforming changes.

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 2020, Chapter 142

53-10-208.1, as last amended by Laws of Utah 2020, Chapter 142

76-7-101, as last amended by Laws of Utah 2020, Chapter 260

78A-6-114, as last amended by Laws of Utah 2020, Chapter 142

78B-7-105, as last amended by Laws of Utah 2020, Chapter 142

78B-7-108, as last amended by Laws of Utah 2018, Chapter 255

78B-7-203, as last amended by Laws of Utah 2020, Chapter 142

78B-7-405, as last amended by Laws of Utah 2020, Chapter 142

78B-7-408, as enacted by Laws of Utah 2018, Chapter 255

78B-7-505, as last amended by Laws of Utah 2020, Chapter 142

78B-7-603, as renumbered and amended by Laws of Utah 2020, Chapter 142

HB0255S01 compared with HB0255

78B-7-604, as renumbered and amended by Laws of Utah 2020, Chapter 142

78B-7-605, as renumbered and amended by Laws of Utah 2020, Chapter 142

78B-7-606, as renumbered and amended by Laws of Utah 2020, Chapter 142

78B-7-801, as enacted by Laws of Utah 2020, Chapter 142

78B-7-802, as renumbered and amended by Laws of Utah 2020, Chapter 142

78B-7-803, as enacted by Laws of Utah 2020, Chapter 142

78B-7-804, as enacted by Laws of Utah 2020, Chapter 142

78B-7-805, as enacted by Laws of Utah 2020, Chapter 142

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;
 - (ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;
 - (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders; [~~or~~]
 - (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders[~~;~~]; or
 - (v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(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

HB0255S01 compared with HB0255

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(1)(d) 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.

(1) 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:

(a) all dispositions of criminal matters, including:

(i) guilty pleas;

(ii) convictions;

(iii) dismissals;

(iv) acquittals;

(v) pleas held in abeyance;

(vi) judgments of not guilty by reason of insanity;

(vii) judgments of guilty with a mental illness;

(viii) finding of mental incompetence to stand trial; and

(ix) probations granted;

(b) orders of civil commitment under the terms of Section 62A-15-631;

HB0255S01 compared with HB0255

(c) 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

(d) protective orders issued after notice and hearing, pursuant to:

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

(ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;

(iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders; [~~or~~]

(iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders[~~;~~]; or

(v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(2) The court in the county where a determination or finding was made shall transmit a record of the determination or finding to the bureau no later than 48 hours after the determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:

(a) adjudicated as a mental defective; or

(b) involuntarily committed to a mental institution in accordance with Subsection 62A-15-631(16).

(3) The record described in Subsection (2) shall include:

(a) an agency record identifier;

(b) the individual's name, sex, race, and date of birth; and

(c) the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

Section 3. Section **76-7-101** is amended to read:

76-7-101. Bigamy -- Penalty -- Defense.

(1) An individual is guilty of bigamy if:

(a) the individual purports to marry another individual; and

(b) knows or reasonably should know that one or both of the individuals described in Subsection (1)(a) are legally married to another individual.

(2) An individual who violates Subsection (1) is guilty of an infraction.

(3) An individual is guilty of a third degree felony if the individual induces bigamy:

(a) under fraudulent or false pretenses; or

(b) by threat or coercion.

HB0255S01 compared with HB0255

(4) An individual is guilty of a second degree felony if the individual:

(a) cohabitates with another individual with whom the individual is engaged in bigamy as described in Subsection (1); and

(b) in furtherance of the conduct described in Subsection (4)(a), commits a felony offense, or for Subsection (4)(b)(vii), a misdemeanor offense, in violation of one or more of the following:

(i) Chapter 5, Part 2, Criminal Homicide;

(ii) Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(iii) Chapter 5, Part 4, Sexual Offenses;

(iv) Section 76-5-109, child abuse -- child abandonment;

(v) Section 76-5-111, abuse, neglect, or exploitation of a vulnerable adult;

(vi) Section 76-5-209, child abuse homicide;

(vii) Section 76-9-702.1, sexual battery;

(viii) Section 76-7-201, criminal nonsupport; [or]

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

(x) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(5) It is a defense to prosecution under Subsection (2) that:

(a) the individual ceased the practice of bigamy as described in Subsection (1) under reasonable fear of coercion or bodily harm;

(b) the individual entered the practice of bigamy, as described in Subsection (1), as a minor and ceased the practice of bigamy at any time after the individual entered the practice of bigamy; or

(c) law enforcement discovers that the individual practices bigamy, as described in Subsection (1), as a result of the individual's efforts to protect the safety and welfare of another individual.

Section 4. Section 78A-6-114 is amended to read:

78A-6-114. Hearings -- Public excluded, exceptions -- Victims admitted -- Minor's cases heard separately from adult cases -- Minor or parents or custodian heard separately -- Continuance of hearing -- Consolidation of proceedings involving more than one minor.

(1) Hearings in minors' cases shall be held before the court without a jury and may be

HB0255S01 compared with HB0255

conducted in an informal manner.

(a) (i) In abuse, neglect, and dependency cases the court shall admit any person to a hearing, including a hearing under Section 78A-6-322, unless the court makes a finding upon the record that the person's presence at the hearing would:

- (A) be detrimental to the best interest of a child who is a party to the proceeding;
- (B) impair the fact-finding process; or
- (C) be otherwise contrary to the interests of justice.

(ii) The court may exclude a person from a hearing under Subsection (1)(a)(i) on its own motion or by motion of a party to the proceeding.

(b) In delinquency cases the court shall admit all persons who have a direct interest in the case and may admit persons requested by the parent or legal guardian to be present. The court shall exclude all other persons except as provided in Subsection (1)(c).

(c) In delinquency cases in which the minor charged is 14 years ~~of age~~ old or older, the court shall admit any person unless the hearing is closed by the court upon findings on the record for good cause if:

(i) the minor has been charged with an offense which would be a felony if committed by an adult; or

(ii) the minor is charged with an offense that would be a class A or B misdemeanor if committed by an adult, and the minor has been previously charged with an offense which would be a misdemeanor or felony if committed by an adult.

(d) (i) [The] Except as provided in Subsection (1)(d)(ii) and Title 78B, Chapter 7, Part 8, Criminal Protective Orders, the victim of any act charged in a petition or information involving an offense committed by a minor which if committed by an adult would be a felony or a class A or class B misdemeanor shall, upon request, be afforded all rights afforded victims in Title 77, Chapter 36, Cohabitant Abuse Procedures Act, Title 77, Chapter 37, Victims' Rights, Title 77, Chapter 38, Rights of Crime Victims Act, and Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(ii) The notice provisions in Section 77-38-3 do not apply to important juvenile justice hearings as defined in Section 77-38-2.

(e) A victim, upon request to appropriate juvenile court personnel, shall have the right to inspect and duplicate juvenile court legal records that have not been expunged concerning:

HB0255S01 compared with HB0255

- (i) the scheduling of any court hearings on the petition;
- (ii) any findings made by the court; and
- (iii) any sentence or decree imposed by the court.

(2) Minors' cases shall be heard separately from adult cases. The minor or the parents or custodian of a minor may be heard separately when considered necessary by the court. The hearing may be continued from time to time to a date specified by court order.

(3) When more than one child is involved in a home situation which may be found to constitute neglect or dependency, or when more than one minor is alleged to be involved in the same law violation, the proceedings may be consolidated, except that separate hearings may be held with respect to disposition.

Section ~~{4}~~5. Section **78B-7-105** is amended to read:

78B-7-105. Forms for petitions, civil protective orders, and civil stalking injunctions -- Assistance -- Fees.

(1) (a) The offices of the court clerk shall provide forms to an individual seeking any of the following under this chapter:

- (i) an ex parte civil protective order;
- (ii) a civil protective order;
- (iii) an ex parte stalking injunction; or
- (iv) a civil stalking injunction.

(b) The Administrative Office of the Courts shall:

(i) develop and adopt uniform forms for petitions and the protective orders and stalking injunctions described in Subsection (1)(a) in accordance with the provisions of this chapter; and

(ii) provide the forms to the clerk of each court authorized to issue the protective orders and stalking injunctions described in Subsection (1)(a).

(2) The forms described in Subsection (1)(b) shall include:

(a) for a petition for an ex parte civil protective order or a civil protective order:

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

(ii) language indicating the criminal penalty for a violation of an ex parte civil

HB0255S01 compared with HB0255

protective order or a civil protective order under this chapter and language stating a violation of or failure to comply with a civil provision is subject to contempt proceedings;

(iii) a space for information the petitioner is able to provide to facilitate identification of the respondent, including the respondent's social security number, driver license number, date of birth, address, telephone number, and physical description;

(iv) a space for information the petitioner is able to provide related to a proceeding for a civil protective order or a criminal protective order, civil litigation, a proceeding in juvenile court, or a criminal case involving either party, including the case name, file number, the county and state of the proceeding, and the judge's name; [~~and~~]

(v) a space to indicate whether the party to be protected is an intimate partner to the respondent or a child of an intimate partner to the respondent; and

(vi) a space for the date on which the provisions of the protective order expire; and

(b) for a petition under Part 6, Cohabitant Abuse Protective Orders:

(i) a separate portion of the form for those provisions, the violation of which is a criminal offense, and a separate portion for those provisions, the violation of which is a civil violation;

(ii) a statement advising the petitioner that when a child is included in an ex parte protective order or a protective order, as part of either the criminal or the civil portion of the order, the petitioner may provide a copy of the order to the principal of the school that the child attends; and

(iii) a statement advising the petitioner that if the respondent fails to return custody of a minor child to the petitioner as ordered in a protective order, the petitioner may obtain from the court a writ of assistance.

(3) If the individual seeking to proceed as a petitioner under this chapter is not represented by an attorney, the court clerk's office shall provide nonlegal assistance, including:

(a) the forms adopted under Subsection (1)(b);

(b) all other forms required to petition for a protective order or stalking injunction described in Subsection (1)(a), including forms for service;

(c) clerical assistance in filling out the forms and filing the petition, or if the court clerk's office designates another entity, agency, or person to provide that service, oversight over the entity, agency, or person to see that the service is provided;

HB0255S01 compared with HB0255

- (d) information regarding the means available for the service of process;
- (e) a list of legal service organizations that may represent the petitioner in an action brought under this chapter, together with the telephone numbers of those organizations; and
- (f) written information regarding the procedure for transporting a jailed or imprisoned respondent to the protective order hearing, including an explanation of the use of transportation order forms when necessary.

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

- (a) filing a petition under this chapter;
- (b) obtaining an ex parte civil protective order or ex parte civil stalking injunction;
- (c) obtaining copies, either certified or uncertified, necessary for service or delivery to law enforcement officials; or

(d) fees for service of:

- (i) a petition under this chapter;
- (ii) an ex parte civil protective order;
- (iii) a civil protective order;
- (iv) an ex parte civil stalking injunction; or
- (v) a civil stalking injunction.

(5) A petition for an ex parte civil protective order and a civil protective order shall be in writing and verified.

(6) (a) The protective orders and stalking injunctions described in Subsection (1)(a) shall be issued in the form adopted by the Administrative Office of the Courts under Subsection (1)(b).

(b) A civil protective order that is issued shall, if applicable, include the following language:

"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. Sec. 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."

(c) An ex parte civil protective order and a civil protective order issued under Part 6, Cohabitant Abuse Protective Orders, shall include the following language:

HB0255S01 compared with HB0255

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

(d) A child protective order issued under Part 2, Child Protective Orders, shall include:

(i) the date the order expires; and

(ii) a statement that the address provided by the petitioner will not be made available to the respondent.

(7) (a) (i) The court clerk shall provide, without charge, to the petitioner, one certified copy of a civil stalking injunction issued by the court and one certified copy of the proof of service of the civil stalking injunction on the respondent.

(ii) A charge may be imposed by the court clerk's office for any copies in addition to the copy described in Subsection (7)(a)(i), certified or uncertified.

(b) An ex parte civil stalking injunction and civil stalking injunction shall include the following statement:

"Attention: This is an official court order. If you disobey this order, the court may find you in contempt. You may also be arrested and prosecuted for the crime of stalking and any other crime you may have committed in disobeying this order.".

Section ~~5~~6. Section **78B-7-108** is amended to read:

78B-7-108. Mutual protective orders.

(1) A court may not grant a mutual order or mutual [~~orders for protection~~] civil protective orders to opposing parties, unless each party:

(a) files an independent petition against the other for a civil protective order, and both petitions are served;

(b) makes a showing at a due process civil protective order hearing of abuse or domestic violence committed by the other party; and

(c) demonstrates the abuse or domestic violence did not occur in self-defense.

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

HB0255S01 compared with HB0255

(3) (a) ~~[A]~~ Except as provided in Subsection (3)(b), a court may not grant [an order for protection to a civil petitioner] a civil protective order to a petitioner who is the respondent or defendant subject to a protective order, child protective order, or ex parte child protective order:

~~[(a)]~~ (i) issued under:

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

~~[(ii)]~~ (A) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

~~[(iii)]~~ (B) Title 78A, Chapter 6, Juvenile Court Act; ~~[or]~~

~~[(iv) Chapter 7, Part 1, Cohabitant Abuse Act; and]~~

(C) Part 6, Cohabitant Abuse Protective Orders; or

(D) Part 8, Criminal Protective Orders; or

(ii) enforceable under Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

(b) ~~[unless]~~ The court may grant a civil protective order to a petitioner described in Subsection (3)(a) if:

(i) the court determines that the requirements of Subsection (1) are met~~[, and:]; and~~

~~[(i)]~~ (ii) (A) the same court [issued the order for protection] that issued the protective order, child protective order, or ex parte child protective order issues the civil protective order against the respondent; or

~~[(ii)]~~ (B) if the matter is before a subsequent court, the subsequent court~~[(A)]~~ determines it would be impractical for the original court to consider the matter~~[:]; or [(B)]~~ confers with the court that issued the ~~[order for protection]~~ protective order, child protective order, or ex parte child protective order.

Section ~~67~~7. Section **78B-7-203** is amended to read:

78B-7-203. Hearings.

(1) (a) If an ex parte child protective order is granted, the court shall schedule a hearing to be held within ~~[20]~~ 21 days after the day on which the court makes the ex parte determination.

(b) If an ex parte child protective order is denied, the court, upon the request of the petitioner made within five days after the day on which the court makes the ex parte

HB0255S01 compared with HB0255

determination, shall schedule a hearing to be held within [20] 21 days after the day on which the petitioner makes the request.

(2) (a) The petition, ex parte child protective order, and notice of hearing shall be served on the respondent, the child's parent or guardian, and, if appointed, the guardian ad litem.

(b) The notice of hearing described in Subsection (2)(a) shall contain:

~~(a)~~ (i) the name and address of the individual to whom the notice is directed;

~~(b)~~ (ii) the date, time, and place of the hearing;

~~(c)~~ (iii) the name of the child on whose behalf a petition is being brought; and

~~(d)~~ (iv) a statement that an individual is entitled to have an attorney present at the hearing.

(3) The court shall provide an opportunity for any person having relevant knowledge to present evidence or information and may hear statements by counsel.

(4) An agent of the division served with a subpoena in compliance with the Utah Rules of Civil Procedure shall testify in accordance with the Utah Rules of Evidence.

(5) The court shall issue a child protective order if the court determines, based on a preponderance of the evidence, that:

(a) for a petition for a child protective order filed under Subsection 78B-7-202(1)(a)(i), the child is being abused or is in imminent danger of being abused; or

(b) for a petition for a protective order filed under Subsection 78B-7-202(1)(a)(ii), the child has been abused and the child protective order is necessary to protect the child.

(6) [~~With the exception of the provisions of~~] Except as provided in Section 78A-6-323, a child protective order is not an adjudication of abuse, neglect, or dependency under Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

Section ~~77~~8. Section **78B-7-405** is amended to read:

78B-7-405. Hearings -- Expiration -- Extension.

(1) (a) The court shall set a date for a hearing on the petition for a dating violence protective order to be held within [20] 21 days after the day on which the court issues an ex parte dating violence protective order.

(b) If, at the hearing described in Subsection (1)(a), the court does not issue a dating violence protective order, the ex parte dating protective order shall expire, unless [~~the dating~~

HB0255S01 compared with HB0255

~~violence protective order is~~ extended by the court.

~~(c) (i) [Extensions beyond the 20-day period may not be granted unless]~~ The court may extend the 21-day period described in Subsection (1)(a) only if:

~~[(i)]~~ (A) the petitioner is unable to be present at the hearing;

~~[(ii)]~~ (B) the respondent has not been served; or

~~[(iii)]~~ (C) exigent circumstances exist.

~~(c) (ii)~~ (ii) Under no circumstances may an ex parte dating violence protective order be extended beyond 180 days from the day on which the court issues the initial ex parte dating violence protective order.

(d) If, at the hearing described in Subsection (1)(a), the court issues a dating violence protective order, the ex parte dating violence protective order shall remain in effect until service of process of the dating violence protective order is completed.

(e) A dating violence protective order ~~[issued after notice and a hearing shall remain]~~ remains in effect for three years after the day on which the ~~[order is issued]~~ court issues the order.

(f) If the hearing ~~[on the petition is heard]~~ described in Subsection (1)(a) is held by a commissioner, ~~[either]~~ the petitioner or respondent may file an objection within ~~[10]~~ 14 calendar days after the day on which the ~~[recommended order is entered]~~ commissioner recommends the order, and, if the petitioner or respondent requests a hearing be held, the assigned judge shall hold a hearing on the objection within ~~[20]~~ 21 days after the day on which the objection is filed.

(2) Upon a hearing under this section, the court may grant any of the relief permitted under Section 78B-7-404, except the court shall not grant the relief described in Subsection 78B-7-404(3)(b) without providing the respondent notice and an opportunity to be heard.

(3) If ~~[a]~~ the court denies a petition for an ex parte dating violence protective order or a petition to modify a dating violence protective order ex parte, the court shall, upon the petitioner's request made within five days after the day on which the court denies the petition:

(a) set the matter for a hearing to be held within ~~[20]~~ 21 days after the day on which the petitioner makes the request; and

(b) notify and serve the respondent.

(4) (a) A dating violence protective order automatically expires ~~[as described in]~~ under

HB0255S01 compared with HB0255

Subsection (1)(e), unless the petitioner files a motion before the day on which the dating violence protective order expires requesting an extension of the dating violence protective order and demonstrates that:

~~[(a)]~~ (i) there is a substantial likelihood the petitioner will be subjected to dating violence; or

~~[(b)]~~ (ii) the respondent committed or was convicted of a violation of the dating violence protective order that the petitioner requests be extended or dating violence after the day on which the dating violence protective order is issued.

(b) (i) If the court denies the motion described in Subsection (4)(a), the dating violence protective order expires under Subsection (1)(e).

~~[(5)-(a)]~~ (ii) If the court grants the motion [~~under~~] described in Subsection (4)(a), the court shall set a new date on which the dating violence protective order expires.

~~[(b) The dating violence protective order shall expire on the date set by the court unless the petitioner files a motion described in Subsection (4) to extend the dating violence protective order.]~~

Section ~~{8}~~9. Section **78B-7-408** is amended to read:

78B-7-408. Duties of law enforcement officers -- Notice to victims.

(1) A law enforcement officer who responds to an allegation of dating violence shall use all reasonable means to protect the victim and prevent further 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 the weapon or weapons involved in the alleged dating violence;

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

(d) providing protection while the victim removes essential personal effects;

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

(f) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of dating violence, in accordance with Subsection (2).

(2) (a) A law enforcement officer shall give written notice to the victim in simple

HB0255S01 compared with HB0255

language, describing the rights and remedies available under this chapter.

(b) The written notice shall also include:

(i) a statement that the forms needed in order to obtain [~~an order for protection~~] a 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 dating protective order is not issued or once the dating protective order is terminated.

Section ~~9~~10. Section **78B-7-505** is amended to read:

78B-7-505. Hearings -- Expiration -- Extension.

(1) (a) The court shall set a date for a hearing on the petition for a sexual violence protective order to be held within [~~20~~] 21 days after the day on which the court issues an ex parte protective order.

(b) If, at the hearing described in Subsection (1)(a), the court does not issue a sexual violence protective order, the ex parte sexual protective order expires, unless extended by the [~~district~~] court.

(c) The court may extend the [~~20-day~~] 21-day period described in Subsection (1)(a) only if:

(i) a party is unable to be present at the hearing for good cause, established by the party's sworn affidavit;

(ii) the respondent has not been served; or

(iii) exigent circumstances exist.

(d) If, at the hearing described in Subsection (1)(a), the 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.

(e) A sexual violence protective order remains in effect for three years after the day on which the court issues the order.

(f) If the hearing described in Subsection (1)(a) is held by a commissioner, the petitioner or respondent may file an objection within [~~10~~] 14 calendar days after the day on

HB0255S01 compared with HB0255

which the commissioner [~~enters the recommended~~] recommends the order, and, if the petitioner or respondent requests a hearing be held, the assigned judge shall hold a hearing on the objection within [~~20~~] 21 days after the day on which the objection is filed.

(2) If the court denies a petition for an ex parte sexual violence protective order or a petition to modify a sexual violence protective order ex parte, the court shall, upon the petitioner's request made within five days after the day on which the court denies the petition:

(a) set the matter for hearing to be held within [~~20~~] 21 days after the day on which the petitioner makes the request; and

(b) notify and serve the respondent.

(3) (a) A sexual violence protective order automatically expires under Subsection (1)(e) unless 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 demonstrates that:

(i) there is a substantial likelihood the petitioner will be subjected to sexual violence;

or

(ii) the respondent committed or was convicted of a violation of the sexual violence protective order that the petitioner requests be extended or a sexual violence offense after the day on which the sexual violence protective order is issued.

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

(ii) If the court grants the motion described in Subsection (3)(a), the 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 three years after the day on which the court issues the order for extension.

(c) After the day on which the court issues an extension of a sexual violence protective order, the 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 ~~†10~~ 11. Section **78B-7-603** is amended to read:

78B-7-603. Cohabitant abuse protective orders -- Ex parte cohabitant abuse

HB0255S01 compared with HB0255

protective orders -- Modification and dismissal 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 a protective order that domestic violence or abuse has occurred, that there is a substantial likelihood domestic violence or abuse will occur, or that a modification of a protective order is required, a court may:

(a) without notice, immediately issue an ex parte cohabitant abuse protective order or modify a protective order ex parte as the court considers necessary to protect the petitioner and all parties named to be protected in the petition; or

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

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

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

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

(c) subject to Subsection (2)(e), prohibit the respondent from being within a specified distance of the petitioner;

(d) subject to Subsection (2)(e), order 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 or household member's residence;

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

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

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

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

HB0255S01 compared with HB0255

(e) if the petitioner or designated family or household member 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, the court:

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

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

(f) upon finding that the respondent's use or possession of a weapon may pose 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;

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

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

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

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

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

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

(3) A court may grant the following relief in a cohabitant abuse protective order or a modification of an order after notice and hearing, regardless of whether the respondent appears:

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

(b) specify arrangements for parent-time of any minor child by the respondent and require supervision of that parent-time by a third party or deny parent-time if necessary to

HB0255S01 compared with HB0255

protect the safety of the petitioner or child.

(4) In addition to the relief granted under Subsection (3), the court may order the transfer of a wireless telephone number in accordance with Section 78B-7-117.

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

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

(b) make reasonable efforts to ensure that the cohabitant abuse protective order is understood by the petitioner, and the respondent, if present;

(c) transmit electronically, by the end of the next business day after the order is issued, a copy of the cohabitant abuse protective order to the local law enforcement agency or agencies designated by the petitioner;

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

(e) if the individual is a respondent or defendant subject to a court order that meets the qualifications outlined in 18 U.S.C. Sec. 922(g)(8), transmit within 48 hours, excluding Saturdays, Sundays, and legal holidays, a record of the order to the Bureau of Criminal Identification that includes:

(i) an agency record identifier;

(ii) the individual's name, sex, race, and date of birth;

(iii) the issue date, conditions, and expiration date for the protective order; and

(iv) if available, the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

(6) Each 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]~~ offenses, as follows:

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

(b) civil offenses are those under Subsections (2)(h)~~[(j), (k), and (l)]~~ through (l), ~~[and]~~ Subsection (3)(a) as it refers to Subsections (2)(h)~~[(j), (k), and (l)]~~ through (l), and Subsection (3)(b).

(7) Child support and spouse support orders issued as part of a protective order are

HB0255S01 compared with HB0255

subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases, except when the protective order is issued ex parte.

(8) (a) The county sheriff that receives the order from the court, under Subsection [(6)] (5), shall provide expedited service for protective orders issued in accordance with this part, and shall transmit verification of service of process, when the order has been served, to the statewide domestic 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 interests of the petitioner.

(9) (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.

(10) A court may modify or vacate a protective order or any provisions in the protective order after notice and hearing, except that the criminal provisions of a cohabitant abuse protective order may not be vacated within two years of issuance unless the petitioner:

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

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

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

(12) A civil provision of a [~~cohabitant abuse~~] protective order described in Subsection

HB0255S01 compared with HB0255

(6) may be dismissed or modified at any time in a divorce, parentage, custody, or guardianship proceeding that is pending between the parties to the [~~cohabitant abuse~~] protective order action [~~after 150 days after the day on which the cohabitant abuse protective order is issued~~] if:

(a) the parties stipulate in writing or on the record to dismiss or modify a civil provision of the [~~cohabitant abuse~~] protective order; or

(b) the court in the divorce, parentage, custody, or guardianship proceeding finds good cause to dismiss or modify the civil provision.

Section ~~{11}~~12. Section **78B-7-604** is amended to read:

78B-7-604. Hearings.

(1) (a) [~~When a court issues an ex parte cohabitant abuse protective order the~~] The court shall set a date for a hearing on the petition for a cohabitant abuse protective order to be held within [~~20~~] 21 days after the day on which the court issues an ex parte cohabitant abuse protective order [~~is issued~~].

(b) If, at [~~that~~] the hearing described in Subsection (1)(a), the court does not issue a protective order, the ex parte cohabitant abuse protective order [~~shall expire, unless the cohabitant abuse protective order is otherwise extended by the court. Extensions beyond the 20-day period may not be granted unless:~~] expires, unless extended by the court.

(c) (i) The court may extend the 21-day period described in Subsection (1)(a) only if:

~~{(i)}~~ (A) the petitioner is unable to be present at the hearing;

~~{(ii)}~~ (B) the respondent has not been served;

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

~~{(iv)}~~ (D) the respondent requests that the ex parte cohabitant abuse protective order be extended; or

~~{(v)}~~ (E) exigent circumstances exist.

~~{(e)}~~ (ii) Under no circumstances may an ex parte cohabitant abuse protective order be extended beyond 180 days from the day on which the court issues the initial ex parte cohabitant abuse protective order.

(d) If, at that hearing described in Subsection (1)(a), the court issues a cohabitant abuse protective order, the ex parte cohabitant abuse protective order remains in effect until service of process of the protective order is completed.

(e) A cohabitant abuse protective order issued after notice and a hearing is effective

HB0255S01 compared with HB0255

until further order of the court.

(f) If the hearing [~~on the petition is heard~~] described in Subsection (1)(a) is held by a commissioner, [~~either~~] the petitioner or respondent may file an objection within [~~10~~] 14 days after the day on which the [~~recommended~~] commissioner recommends the order, and, if the petitioner or respondent requests a hearing be held, the assigned judge shall hold a hearing within [~~20~~] 21 days after the day on which the objection is filed.

(2) Upon a hearing under this section, the court may grant any of the relief described in Section 78B-7-603.

(3) [~~When a court denies a petition~~] If the court denies a petition for an ex parte cohabitant abuse protective order or a petition to modify a protective order ex parte, the court shall, upon the request of the petitioner made within five days after the day on which the court denies the petition[~~, the court shall~~]:

(a) set the matter for hearing to be held within [~~20~~] 21 days after the day on which the petitioner makes the request; and

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

(4) (a) A respondent who has been served with an ex parte cohabitant abuse protective order may seek to vacate the ex parte cohabitant abuse protective order [~~under~~] described in Subsection (1)(a) by filing a verified motion to vacate before the day on which the hearing is set.

(b) The respondent's verified motion to vacate described in Subsection (4)(a) and a notice of hearing on [~~that~~] the motion shall be personally served on the petitioner at least two days before the day on which the hearing on the motion to vacate is set.

Section ~~{12}~~ 13. Section **78B-7-605** is amended to read:

78B-7-605. Dismissal.

(1) 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; and

(c) the petitioner's actions demonstrate that the petitioner no longer has a reasonable

HB0255S01 compared with HB0255

fear of the respondent.

(2) 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 the other party.

(3) [~~Except as provided in Subsection (4), if~~] If a divorce proceeding is pending between parties to a protective order action, the court shall dismiss the protective order [~~shall be dismissed~~] when the court issues a decree of divorce for the parties if:

- (a) the respondent files a motion to dismiss a protective order in both the divorce action and the protective order action and personally serves the petitioner; and
- (b) (i) the parties stipulate in writing or on the record to dismiss the protective order; or
- (ii) based on evidence at the divorce trial, the court determines that the petitioner no longer has a reasonable fear of future harm, abuse, or domestic violence.

(4) 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 violence

network as described in Section 78B-7-113.

Section ~~{13}~~14. Section **78B-7-606** is amended to read:

78B-7-606. Expiration -- Extension.

(1) (a) [~~Subject~~] Except as provided in Subsection (1)(b) and subject to the other provisions of this section, a cohabitant abuse protective order automatically expires three years after the day on which the cohabitant abuse protective order is entered.

(b) (i) The civil provisions of a cohabitant abuse protective order described in Section 78B-7-603 expires 150 days after the day on which the cohabitant abuse protective order is entered, unless the court finds good cause for extending the expiration date of the civil provisions.

(ii) Unless a motion under this section is granted, a court may not extend the civil provisions of a **cohabitant abuse** protective order for more than three years after the day on which the cohabitant abuse protective order is entered.

(2) A cohabitant abuse protective order automatically expires [~~as described in~~] under Subsection (1), unless the petitioner files a motion before the day on which the cohabitant

HB0255S01 compared with HB0255

abuse protective order expires and demonstrates that:

(a) the petitioner has a current reasonable fear of future harm, abuse, or domestic violence; or

(b) the respondent committed or was convicted of a cohabitant abuse protective order violation or a qualifying domestic violence offense, as defined in Section 77-36-1.1, subsequent to the issuance of the cohabitant abuse protective order.

(3) (a) If the court grants the motion under Subsection (2), the court shall set a new date on which the cohabitant abuse protective order expires.

(b) The cohabitant abuse protective order will expire on the date set by the court unless the petitioner files a motion described in Subsection (2) to extend the cohabitant abuse protective order.

Section ~~{14}~~15. Section **78B-7-801** is amended to read:

78B-7-801. Definitions.

As used in this part:

(1) (a) "Jail release agreement" means a written agreement that is entered into by an ~~[arrested]~~ individual who is arrested or issued a citation, regardless of whether the individual is booked into jail:

(a) (i) under which the arrested or cited individual agrees to not engage in any of the following:

~~[(i) have personal contact with the alleged victim;]~~

~~[(ii) threaten or harass]~~

(A) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

~~[(ii) B) {threaten or harass}]~~ threatening or harassing the alleged victim; or

(C) knowingly ~~[enter on]~~ entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim; and

~~[(b) (i)]~~ that specifies other conditions of release from jail or arrest.

(b) "Jail release agreement" includes a written agreement that includes the conditions described in Section (1)(a) entered into by a minor who is taken into custody or placed in detention or a shelter facility under Section 78A-6-112.

(2) "Jail release court order" means a written court order that:

HB0255S01 compared with HB0255

(a) orders an arrested or cited individual not to engage in any of the following:

~~[(i) have personal contact with the alleged victim;]~~

(i) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(ii) ~~[threaten or harass]~~ threatening or harassing the alleged victim; or

(iii) knowingly ~~[enter on]~~ entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim; and

(b) specifies other conditions of release from jail.

(3) "Minor" means ~~[an unemancipated individual who is younger than 18 years of age]~~ the same as that term is defined in Section 78A-6-105.

(4) "Offense against a child or vulnerable adult" means the commission or attempted commission of an offense described in Section 76-5-109, 76-5-109.1, 76-5-110, ~~[or]~~ 76-5-111, or 76-9-702.1.

(5) "Qualifying offense" means:

(a) domestic violence;

(b) an offense against a child or vulnerable adult; or

(c) the commission or attempted commission of an offense described in Section 76-9-702.1 or Title 76, Chapter 5, Part 4, Sexual Offenses.

Section ~~{15}~~16. Section **78B-7-802** is amended to read:

78B-7-802. Conditions for release after arrest for domestic violence and other offenses -- Jail release agreements -- Jail release court orders.

(1) Upon arrest or issuance of a citation for a qualifying offense and before the individual is released on bail, recognizance, or otherwise, the individual may not ~~[personally contact the alleged victim]~~ telephone, contact, or otherwise communicate with the alleged victim, directly or indirectly.

(2) (a) After an individual is arrested or issued a citation for a qualifying offense, the individual may not be released before:

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

(ii) the individual signs a jail release agreement.

(b) ~~[The]~~ If an arrested individual is booked into jail, the arresting officer shall ensure that the information presented to the magistrate includes whether the alleged victim has made a

HB0255S01 compared with HB0255

waiver described in Subsection (5)(a).

(c) (i) If the magistrate determines there is probable cause to support the charge or charges of one or more qualifying offenses, the magistrate shall determine whether the arrested individual may be held without bail, in accordance with Section 77-20-1.

(ii) If the magistrate determines that the arrested individual has the right to be admitted to bail, the magistrate shall determine:

(A) whether any release conditions, including electronic monitoring, are necessary to protect the alleged victim; and

(B) any bail that is required to guarantee the arrested individual's subsequent appearance in court.

(d) The magistrate may not release an individual arrested for a qualifying offense unless the magistrate issues a jail release court order or the arrested individual signs a jail release agreement.

(3) (a) If an individual charged with a qualifying offense fails to either schedule an initial appearance or to appear at the time scheduled by the magistrate within 96 hours after the time of arrest, the individual shall comply with the release conditions of a jail release agreement or jail release court order until the individual makes an initial appearance.

(b) If the prosecutor has not filed charges against an individual who was arrested for a qualifying offense and who appears in court at the time scheduled by the magistrate under Subsection (2), or by the court under Subsection (3)(b)(ii), the court:

(i) may, upon the motion of the prosecutor and after allowing the individual an opportunity to be heard on the motion, extend the release conditions described in the jail release court order or the jail release agreement by no more than three court days; and

(ii) if the court grants the motion described in Subsection (3)(b)(i), shall order the arrested individual to appear at a time scheduled before the end of the granted extension.

(c) (i) If the prosecutor determines that there is insufficient evidence to file charges before an initial appearance scheduled under Subsection (3)(a), the prosecutor shall transmit a notice of declination to either the magistrate who signed the jail release court order or, if the releasing agency obtains a jail release agreement from the released arrestee, to the statewide domestic violence network described in Section 78B-7-113.

(ii) A prosecutor's notice of declination transmitted under this Subsection (3)(c) is

HB0255S01 compared with HB0255

considered a motion to dismiss a jail release court order and a notice of expiration of a jail release agreement.

(4) Except as provided in ~~Subsection (3)~~ Subsections (3) and (11) or otherwise ordered by a court, a jail release agreement or jail release court order expires at midnight after the earlier of:

(a) the arrested or cited individual's initial scheduled court appearance described in Subsection (3)(a);

(b) the day on which the prosecutor transmits the notice of the declination under Subsection (3)(c); or

(c) 30 days after the day on which the ~~arrested~~ individual is arrested or issued a citation.

(5) (a) (i) After an individual is arrested or issued a citation for a qualifying offense, an alleged victim who is not a minor may waive in writing any condition of a jail release agreement by:

(A) appearing in person to the law enforcement agency that arrested the individual or issued the citation to the individual for the qualifying offense;

(B) appearing in person to the jail or correctional facility that released the arrested individual from custody; or

(C) appearing in person to the clerk at the court of the jurisdiction where the charges are filed.

~~[(5) (a) (i) After an arrest for a qualifying offense, an] (ii) An~~ alleged victim who is not a minor may waive in writing the release conditions prohibiting:

~~[(A) personal contact with the alleged victim; or]~~

(A) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly; or

(B) knowingly entering on the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim.

(iii) A parent or guardian may not, without the approval of the court, waive the release conditions of the jail release agreement on behalf of an alleged victim who is a minor.

~~[(iii)] (iv)~~ Upon waiver, the release conditions described in Subsection (5)(a)~~[(i)](ii)~~ do not apply to the arrested or cited individual.

HB0255S01 compared with HB0255

(b) A court or magistrate may modify a jail release agreement or a jail release court order in writing or on the record, and only for good cause shown.

(6) (a) When an [~~arrested~~] individual is arrested or issued a citation and subsequently released in accordance with Subsection (2), the releasing agency shall:

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

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

(iii) before releasing the [~~arrested~~] individual who is arrested or issued a citation, give the arrested or cited individual a copy of the jail release agreement or the jail release court order.

(b) (i) When an individual arrested or issued a citation for domestic violence is released under this section based on a jail release agreement, the releasing agency shall transmit that information to the statewide domestic violence network described in Section 78B-7-113.

(ii) When an individual arrested or issued a citation for domestic violence is released under this section based upon a jail release court order or if a jail release agreement is modified under Subsection (5)(b), the court shall transmit that order to the statewide domestic violence network described in Section 78B-7-113.

(c) This Subsection (6) does not create or increase liability of a law enforcement officer or agency, and the good faith immunity provided by Section 77-36-8 is applicable.

(7) An individual who is arrested for a qualifying offense that is a felony and released in accordance with this section may subsequently be held without bail if there is substantial evidence to support a new felony charge against the individual.

(8) At the time an arrest is made or a citation is issued for a qualifying offense, the arresting officer shall provide the alleged victim with written notice containing:

(a) the release conditions described in this section, and notice that the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:

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

(ii) the magistrate issues a jail release order that specifies the release conditions;

(b) notification of the penalties for violation of any jail release agreement or jail release

HB0255S01 compared with HB0255

court order;

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

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

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

(9) At the time an arrest is made or a citation is issued for a qualifying offense, the arresting officer shall provide the alleged perpetrator with written notice containing:

(a) notification that the alleged perpetrator may not contact the alleged victim before being released, including telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(b) the release conditions described in this section and notice that the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:

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

(ii) the magistrate issues a jail release court order;

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

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

(10) (a) A pretrial or sentencing protective order issued under this part supersedes a jail release agreement or jail release court order.

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

(11) (a) This section does not apply if the individual arrested for the qualifying offense is a minor who is under 18 years old, unless the qualifying offense is domestic violence.

(b) A jail release agreement signed by, or a jail release court order issued against, a minor who allegedly committed an offense described in Subsection 78A-6-114(1)(d) expires on the earlier of:

HB0255S01 compared with HB0255

(i) the day of the minor's initial court appearance described in Subsection (3)(a);

(ii) the day on which the prosecutor transmits the notice of declination under Subsection (3)(c);

(iii) 30 days after the day on which the minor is arrested or issued a citation; or

(iv) the day on which the juvenile court terminates jurisdiction.

Section 17. Section 78B-7-803 is amended to read:

78B-7-803. Pretrial protective orders.

(1) (a) When [a defendant] an alleged perpetrator is charged with a crime involving a qualifying offense, the court shall, at the time of the [defendant's] alleged perpetrator's court appearance under Section 77-36-2.6:

(i) determine the necessity of imposing a pretrial protective order or other condition of pretrial release; and

(ii) state the court's findings and determination in writing.

(b) [In] Except as provided in Subsection (4), in any criminal case, the court may, during any court hearing where the [defendant] alleged perpetrator is present, issue a pretrial protective order, pending trial.

(2) A court may include any of the following provisions in a pretrial protective order:

(a) an order enjoining the [defendant] alleged perpetrator from threatening to commit or committing acts of domestic violence or abuse against the victim and any designated family or household member;

(b) an order prohibiting the [defendant] alleged perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order removing and excluding the [defendant] alleged perpetrator from the victim's residence and the premises of the residence;

(d) an order requiring the [defendant] alleged perpetrator to stay away from the victim's residence, school, or place of employment, and the premises of any of these, or any specified place frequented by the victim and any designated family member;

(e) an order for any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member;

(f) an order identifying and requiring an individual designated by the victim to communicate between the [defendant] alleged perpetrator and the victim if and to the extent

HB0255S01 compared with HB0255

necessary for family related matters;

(g) an order requiring the [defendant] alleged perpetrator to participate in an electronic or other type of monitoring program; and

(h) if the alleged victim and the [defendant] alleged perpetrator share custody of one or more minor children, an order for indirect or limited contact to temporarily facilitate parent visitation with a minor child.

(3) [When issuing a] If the court issues a pretrial protective order, the court shall determine whether to allow provisions for transfer of personal property to decrease the need for contact between the parties.

(4) A pretrial protective order issued under this section against an alleged perpetrator who is a minor charged with an offense described in Subsection 78A-6-114(1)(d) expires on the earlier of:

(a) the day on which the court issues an order against the alleged perpetrator under Section 78B-7-804 or 805 or otherwise makes a disposition of the alleged perpetrator's case under Section 78A-6-117; or

(b) the day on which the juvenile court terminates jurisdiction.

Section 18. Section 78B-7-804 is amended to read:

78B-7-804. Sentencing and continuous protective orders for a domestic violence offense -- Modification -- Expiration.

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

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:

(a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;

HB0255S01 compared with HB0255

(d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;

(e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and

(f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3) (a) Because of the serious, unique, and highly traumatic nature of domestic violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of violence subsequent to the release of a perpetrator who is convicted of or adjudicated for domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the issuance of continuous protective orders under this Subsection (3) because of the need to provide ongoing protection for the victim and to be consistent with the purposes of protecting victims' rights under Title 77, Chapter 37, Victims' Rights, and Title 77, Chapter 38, Rights of Crime Victims Act, and Article I, Section 28 of the Utah Constitution.

(b) [H] Except as provided in Subsection (6), if a perpetrator is convicted of a domestic violence offense resulting in a sentence of imprisonment, including jail, that is to be served after conviction, the court shall issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim unless the court determines by clear and convincing evidence that the victim does not have a reasonable fear of future harm or abuse.

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

(ii) If the perpetrator requests a hearing under this Subsection (3)(c), the court shall hold the hearing at the time determined by the court. The continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.

(d) A continuous protective order is permanent in accordance with this Subsection (3) and may include:

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

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

(iii) an order prohibiting the perpetrator from going to the victim's residence, school,

HB0255S01 compared with HB0255

place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or other household member;

(iv) an order directing the perpetrator to pay restitution to the victim as may apply, and shall be enforced in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act; and

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

(4) A continuous protective order may be modified or dismissed only if the court determines by clear and convincing evidence that all requirements of Subsection (3) have been met and the victim does not have a reasonable fear of future harm or abuse.

(5) [In] Except as provided in Subsection (6), in addition to the process of issuing a continuous protective order described in Subsection (3), a district court may issue a continuous protective order at any time if the victim files a petition with the court, and after notice and hearing the court finds that a continuous protective order is necessary to protect the victim.

(6) (a) The court may not issue a continuous protective order under this section against a perpetrator who is a minor.

(b) Unless the court sets an earlier date for expiration, a sentencing protective order issued under this section against a perpetrator who is a minor charged with an offense described in Subsection 78A-6-114(1)(d) expires on the earlier of:

(i) the day on which the juvenile court terminates jurisdiction; or

(ii) in accordance with Section 62A-7-506, the day on which the Division of Juvenile Justice Services discharges the perpetrator.

Section 19. Section 78B-7-805 is amended to read:

78B-7-805. Sentencing protective orders and continuous protective orders for an offense that is not domestic violence -- Modification -- Expiration.

(1) Before a perpetrator has been convicted of or adjudicated for an offense that is not domestic violence is placed on probation, the court may consider the safety and protection of the victim and any member of the victim's family or household.

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:

(a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

HB0255S01 compared with HB0255

(b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;

(d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;

(e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and

(f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3) (a) If a perpetrator is convicted of an offense that is not domestic violence resulting in a sentence of imprisonment that is to be served after conviction, the court may issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim if the court determines by clear and convincing evidence that the victim has a reasonable fear of future harm or abuse.

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

(ii) If the perpetrator requests a hearing under this Subsection (3), the court shall hold the hearing at the time determined by the court and the continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.

(c) [A] Except as provided in Subsection (6), a continuous protective order is permanent in accordance with this Subsection (3)(c) and may include any order described in Subsection 78B-7-804(3)(c).

(4) A continuous protective order issued under this section may be modified or dismissed only in accordance with Subsection 78B-7-804(4).

(5) [In] Except as provided in Subsection (6), in addition to the process of issuing a continuous protective order described in Subsection (3)(a), a district court may issue a continuous protective order at any time in accordance with Subsection 78B-7-804(5).

(6) (a) The court may not issue a continuous protective order under this section against a perpetrator who is a minor.

(b) Unless the court sets an earlier date for expiration, a sentencing protective order

HB0255S01 compared with HB0255

issued under this section against a perpetrator who is a minor charged with an offense described in Subsection 78A-6-114(1)(d) expires on the earlier of:

(i) the day on which the juvenile court terminates jurisdiction; or

(ii) in accordance with Section 62A-7-506, the day on which the Division of Juvenile Justice Services discharges the perpetrator.