

HB0351S01 compared with HB0351

~~deleted text~~ shows text that was in HB0351 but was deleted in HB0351S01.

inserted text shows text that was not in HB0351 but was inserted into HB0351S01.

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Representative Candice B. Pierucci proposes the following substitute bill:

DOMESTIC VIOLENCE MODIFICATIONS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Candice B. Pierucci

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses domestic violence and protective orders.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Domestic Violence Data Task Force (task force) and describes the duties of the task force;
- ▶ includes a sunset date for the task force;
- ▶ requires the Department of Public Safety to:
 - develop and distribute a form to collect data on lethality assessments used in domestic violence cases from law enforcement agencies; and
 - staff the task force;

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- ▶ removes provisions requiring the Department of Public Safety and the State Commission on Criminal and Juvenile Justice to collect certain domestic violence data;
- ▶ directs the Administrative Office of the Courts to consider certain domestic violence training for judges, commissioners, and court staff;
- ▶ provides that certain civil protective orders do not prevent the respondent from communicating with the petitioner's attorney regarding the civil protective order; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196, 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382

76-5-108, as last amended by Laws of Utah 2021, Chapter 262

78B-7-120, as enacted by Laws of Utah 2021, Chapters 180 and 180

78B-7-204, as last amended by Laws of Utah 2021, Chapter 262

78B-7-404, as last amended by Laws of Utah 2020, Chapter 142

78B-7-504, as last amended by Laws of Utah 2020, Chapter 142

78B-7-603, as last amended by Laws of Utah 2021, Chapters 159 and 262

ENACTS:

63C-25-101, Utah Code Annotated 1953

63C-25-201, Utah Code Annotated 1953

63C-25-202, Utah Code Annotated 1953

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

Section 1. Section **63C-25-101** is enacted to read:

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CHAPTER 25. DOMESTIC VIOLENCE DATA TASK FORCE

Part 1. General Provisions

63C-25-101. Definitions.

As used in this part:

(1) "Criminal justice system victim advocate" means ~~an individual who:~~

~~(a) is employed or authorized to volunteer by a government agency that possesses a role or responsibility within the criminal justice system; and~~

~~(b) as a primary responsibility, addresses the mental, physical, or emotional recovery of victims;~~ the same as that term is defined in Section 77-38-403.

(2) "Cohabitant abuse protective order" means an order issued with or without notice to the respondent under Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders.

~~(3) "Domestic violence organization" means a state, local, or not for profit agency that provides domestic violence services.~~

~~(4) "Domestic violence services" means the same as that term is defined in Section 62A-4a-101.~~

~~(5)~~ (3) "Lethality assessment" means an evidence-based assessment that is intended to identify a victim of domestic violence who is at a high risk of being killed by the perpetrator.

~~(6)~~ (4) "Nongovernment organization victim advocate" means ~~an individual who:~~

~~(a) is employed or authorized to volunteer by a nongovernment organization advocacy services provider; and~~

~~(b) as a primary responsibility, addresses the mental, physical, or emotional recovery of victims.~~

~~(7)~~ the same as that term is defined in Section 77-38-403.

(5) "Task force" means the Domestic Violence Data Task Force created in Section 63C-25-201.

~~(8)~~ (6) "Victim" means an individual who is a victim of domestic violence, as defined in Section 77-36-1.

Section 2. Section **63C-25-201** is enacted to read:

Part 2. Domestic Violence Data Task Force

63C-25-201. Domestic Violence Data Task Force -- Creation -- Members --

Compensation -- Quorum -- Staff.

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(1) There is created the Domestic Violence Data Task Force to coordinate and make recommendations to the Legislature regarding the collection of domestic violence data in the state.

(2) The task force consists of the following members:

(a) one member of the Senate, appointed by the president of the Senate;

(b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) the Commissioner of Public Safety, or the commissioner's designee;

(d) the executive director of the Department of Corrections, or the executive director's designee;

(e) the chair of the Board of Pardons or Parole, or the chair's designee;

(f) the president of the Utah Chiefs of Police Association, or the president's designee;

(g) the president of the Utah Sheriffs Association, or the president's designee;

(h) the executive director of the State Commission on Criminal and Juvenile Justice, or the director's designee;

(i) the director of the Division of Child and Family Services, or the director's designee;

(j) the program manager of the Violence and Injury Prevention Program within the Department of Health, or the program manager's designee;

(k) the director of the Division of Indian Affairs, or the director's designee;

(l) one individual who represents the Administrative Office of the Courts appointed by the state court administrator;

(m) one individual appointed jointly by the Utah League of Cities and Towns and the Utah Association of Counties; and

(n) the following individuals appointed jointly by the president of the Senate and the speaker of the House of Representatives:

(i) one ~~representative of~~ individual who represents a ~~state~~ statewide domestic violence coalition, as defined in 45 C.F.R. Sec. 1370.2;

(ii) one criminal justice system advocate; and

(iii) one nongovernment organization victim advocate.

(3) The task force shall annually select one of the task force members to be the chair of the task force.

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(4) If a vacancy occurs in the membership of the task force appointed under Subsection (1), the member shall be replaced in the same manner in which the original appointment was made.

(5) (a) The salary and expenses of a task force member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A task force member who is not a legislator:

(i) may not receive compensation or benefits for the member's service on the task force; and

(ii) may receive per diem and reimbursement for travel expenses that the task force member incurs as a task force member at the rates that the Division of Finance establishes under:

(A) Sections 63A-3-106 and 63A-3-107; and

(B) rules that the Division of Finance makes under Sections 63A-3-106 and 63A-3-107.

(6) (a) A majority of the task force members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(7) The Department of Public Safety shall provide staff support to the task force.

Section 3. Section **63C-25-202** is enacted to read:

63C-25-202. Task force duties -- Reporting.

(1) The task force shall:

(a) gather information on:

(i) lethality assessments conducted in the state, including:

(A) the type of lethality assessments used by law enforcement agencies and other organizations that provide domestic violence services; and

(B) training and protocols implemented by law enforcement agencies and the organizations described in Subsection (1)(a)(i)(A) regarding the use of lethality assessments;

(ii) the data collection efforts implemented by law enforcement agencies and the organizations described in Subsection (1)(a)(i)(A);

(iii) the number of cohabitant abuse protective orders that, in the immediately preceding calendar year, were:

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(A) issued;

(B) amended or dismissed before the date of expiration; and

(C) dismissed under Subsection 78B-7-605(1); and

(iv) the prevalence of domestic violence in the state and the prevalence of the following in domestic violence cases:

(A) stalking;

(B) strangulation;

(C) violence in the presence of children; and

(D) threats of suicide or homicide; and

(b) review and provide feedback on the form described in Subsection 78B-7-120(1)(d);

(~~b~~c) develop a strategic plan to improve domestic violence data collection in the state that addresses:

(i) coordination between state, local, and not for profit agencies to collect data on the prevalence of domestic violence and domestic violence data from lethality assessments;

(ii) standardization of the format for collecting domestic violence and lethality assessment data from state, local, and not for profit agencies within federal confidentiality requirements; and

(iii) the need for any additional data collection requirements or efforts.

(2) Before November 30, 2022, the task force shall provide a written report to the Law Enforcement and Criminal Justice Interim Committee describing:

(a) the information gathered under Subsection (1)(a); and

(b) the strategic plan described in Subsection (1)(b).

Section 4. Section **63I-1-263** is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-16-102 is repealed;

(b) Section 63A-16-201 is repealed; and

(c) Section 63A-16-202 is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1,

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2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63C, Chapter 25, Domestic Violence Data Task Force, is repealed December 31, 2023.

~~(11)~~ (12) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.

~~(12)~~ (13) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

~~(13)~~ (14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

~~(14)~~ (15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

~~(15)~~ (16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

~~(16)~~ (17) Subsection 63J-1-602.1(17), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

~~(17)~~ (18) (a) Subsection 63J-1-602.1(61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

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(b) When repealing Subsection 63J-1-602.1(61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(18)]~~ (19) Subsection 63J-1-602.2(5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

~~[(19)]~~ (20) Subsection 63J-1-602.2(6), referring to the Trip Reduction Program, is repealed July 1, 2022.

~~[(20)]~~ (21) Subsection 63J-1-602.2(24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

~~[(21)]~~ (22) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

~~[(22)]~~ (23) In relation to the advisory committee created in Subsection 63L-11-305(3), on July 1, 2022:

(a) Subsection 63L-11-305(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.

~~[(23)]~~ (24) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d)."

~~[(24)]~~ (25) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

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~~[(25)]~~ (26) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

~~[(26)]~~ (27) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

~~[(27)]~~ (28) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

~~[(28)]~~ (29) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

~~[(29)]~~ (30) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

~~[(30)]~~ (31) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection ~~[(30)]~~ (31)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

~~[(31)]~~ (32) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

~~[(32)]~~ (33) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

~~[(33)]~~ (34) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

Section 5. Section **76-5-108** is amended to read:

76-5-108. Protective orders restraining abuse of another -- Violation.

(1) Any person who is the respondent or defendant subject to a protective order, child protective order, ex parte protective order, or ex parte child protective order issued under the following who intentionally or knowingly violates that order after having been properly served or having been present, in person or through court video conferencing, when the order was

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issued, is guilty of a class A misdemeanor, except as a greater penalty may be provided in:

~~(a)~~ Title 77, Chapter 36, Cohabitant Abuse Procedures Act[?];

~~[(a) Title 80, Utah Juvenile Code;]~~

(b) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders;

(c) Title 78B, Chapter 7, Part 8, Criminal Protective Orders; ~~[or]~~

(d) a foreign protection order enforceable under Title 78B, Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act[?]; or

(e) Title 80, Utah Juvenile Code.

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

Section 6. Section **78B-7-120** is amended to read:

78B-7-120. Law enforcement training -- Domestic violence -- Lethality assessments -- Forms -- Judicial education.

(1) The Department of Public Safety shall:

~~(a)~~ develop training in domestic violence responses and lethality assessment protocols[? ~~which include the following~~] that includes information regarding:

~~[(a)]~~ (i) recognizing the symptoms of domestic violence and trauma;

~~[(b)]~~ (ii) an evidence-based assessment to identify victims of domestic violence who may be at a high risk of being killed by a perpetrator;

~~[(c)]~~ (iii) lethality assessment protocols and interviewing techniques, including indicators of strangulation;

~~[(d)]~~ (iv) responding to the needs and concerns of a victim of domestic violence;

~~[(e)]~~ (v) delivering services to victims of domestic violence in a compassionate, sensitive, and professional manner; and

~~[(f)]~~ (vi) understanding cultural perceptions and common myths of domestic violence[?];

~~[(2)]~~ (b) ~~[The department shall]~~ develop and offer an online training course in domestic violence issues to all certified law enforcement officers in the state[?];

~~[(3) Training in domestic violence issues shall be incorporated into training offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer.]~~

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~~[(4)] (c) [The department shall] develop specific training curriculums [that meet the requirements of this section, including] for the trainings described in Subsections (1)(a) and (b) that include:~~

~~[(a)] (i) information regarding response to domestic violence incidents, including trauma-informed and victim-centered interview techniques;~~

~~[(b)] (ii) lethality assessment protocols which have been demonstrated to minimize retraumatizing victims; and~~

~~[(c)] (iii) standards for report writing[-]; and~~

~~[(5) The Department of Public Safety, in partnership with the Division of Child and Family Services and the Commission on Criminal and Juvenile Justice, shall work to identify aggregate domestic violence data to include:]~~

~~[(a) lethality assessments;]~~

~~[(b) the prevalence of stalking;]~~

~~[(c) strangulation;]~~

~~[(d) violence in the presence of children; and]~~

~~[(e) threats of suicide or homicide.]~~

~~(d) with feedback from the Domestic Violence Data Task Force, created in Section 63C-25-201, develop a form to be used by a law enforcement agency to provide data regarding lethality assessments performed by the law enforcement agency and disseminate the form to law enforcement agencies in the state.~~

~~[(6) The Department of Public Safety, with support from the Commission on Criminal and Juvenile Justice and the Division of Child and Family Services shall provide recommendations to the Law Enforcement and Criminal Justice Interim Committee not later than July 31 of each year and in the commission's annual report required by Section 63M-7-205.]~~

~~(2) The Peace Officer Standards and Training Division shall incorporate training in domestic violence issues into training offered to all individuals seeking certification as a peace officer.~~

~~(3) The Administrative Office of the Courts shall consider including the concepts in the training described in Subsections (1)(a) and (b) as part of an appropriate education program for judges, commissioners, and court staff.~~

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Section 7. Section **78B-7-204** is amended to read:

78B-7-204. Content of orders -- Modification of orders -- Penalties.

(1) A child protective order or an ex parte child protective order may contain the following provisions the violation of which is a class A misdemeanor under Section 76-5-108:

(a) enjoin the respondent from threatening to commit or committing abuse of the child;

(b) prohibit the respondent from harassing, telephoning, contacting, or otherwise communicating with the child, directly or indirectly;

(c) prohibit the respondent from entering or remaining upon the residence, school, or place of employment of the child and the premises of any of these or any specified place frequented by the child;

(d) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the child, prohibit the respondent from purchasing, using, or possessing a firearm or other specified weapon; and

(e) determine ownership and possession of personal property and direct the appropriate law enforcement officer to attend and supervise the petitioner's or respondent's removal of personal property.

(2) A child protective order or an ex parte child protective order may contain the following provisions the violation of which is contempt of court:

(a) determine temporary custody of the child who is the subject of the petition;

(b) determine parent-time with the child who is the subject of the petition, including denial of parent-time if necessary to protect the safety of the child, and require supervision of parent-time by a third party;

(c) determine support in accordance with Title 78B, Chapter 12, Utah Child Support Act; and

(d) order any further relief the court considers necessary to provide for the safety and welfare of the child.

(3) (a) An order under Subsection (1) or (2) does not prohibit the respondent from communicating with the petitioner's counsel regarding the protective order.

(b) The petitioner's or respondent's counsel may communicate with the opposing party in accordance with the Utah Rules of Professional Conduct.

~~(3)~~ (4) (a) If the child who is the subject of the child protective order attends the same

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school or place of worship as the respondent, or is employed at the same place of employment as the respondent, the court:

(i) may not enter an order under Subsection (1)(c) that excludes the respondent from the respondent's school, place of worship, or place of employment; and

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

(b) A violation of an order under Subsection [~~(3)~~] (4)(a) is contempt of court.

[~~(4)~~] (5) (a) A respondent may petition the court to modify or vacate a child protective order after notice and a hearing.

(b) At the hearing described in Subsection [~~(4)~~] (5)(a):

(i) the respondent shall have the burden of proving by clear and convincing evidence that modification or vacation of the child protective order is in the best interest of the child; and

(ii) the court shall consider:

(A) the nature and duration of the abuse;

(B) the pain and trauma inflicted on the child as a result of the abuse;

(C) if the respondent is a parent of the child, any reunification services provided in accordance with Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings; and

(D) any other evidence the court finds relevant to the determination of the child's best interests, including recommendations by the other parent or a guardian of the child, or a mental health professional.

(c) The child is not required to attend the hearing described in Subsection [~~(4)~~] (5)(a).

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

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

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

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

(b) upon notice to the respondent, issue a dating violence protective order or modify a

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dating violence protective order after a hearing, regardless of whether the respondent appears.

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

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

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

(c) order that the respondent:

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

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

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

(B) place of employment and its premises; and

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

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

(e) 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.

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

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

(b) except as provided in Subsection (5), upon finding that the respondent's use or possession of a weapon poses a serious threat of harm to the petitioner or any designated family or household member, prohibit the respondent from purchasing, using, or possessing a weapon specified by the court.

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

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

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

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

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

(b) unless the petition establishes:

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

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

(6) After the court issues a dating violence protective order, the court shall:

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

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

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

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

(7) (a) The county sheriff that receives the order from the court, under Subsection (6)(a), shall:

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

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

(b) This section does not prohibit another law enforcement agency 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

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respondent is in the best interests of the petitioner.

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

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

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

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

(10) (a) An order under this section does not prohibit the respondent from communicating with the petitioner's counsel regarding the protective order.

(b) The petitioner's or respondent's counsel may communicate with the opposing party in accordance with the Utah Rules of Professional Conduct.

Section 9. Section **78B-7-504** is amended to read:

78B-7-504. Sexual violence protective orders -- Ex parte protective orders -- Modification of orders.

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

(a) without notice, immediately issue an ex parte sexual violence protective order against the respondent or modify an existing sexual violence protective order ex parte, if necessary to protect the petitioner or any party named in the petition; or

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

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

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

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

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or indirectly;

(c) order that the respondent:

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

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

(A) school and its premises;

(B) place of employment and its premises; or

(C) place of worship and its premises; or

(iii) stay away from any specified place frequented by the petitioner or a family or household member designated in the protective order;

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

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

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

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

(b) subject to Subsection (5), upon finding that the respondent's use or possession of a weapon poses a serious threat of harm to the petitioner or a family or household member designated in the protective order, prohibit the respondent from purchasing, using, or possessing a weapon specified by the district court.

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

(a) that excludes the respondent from the respondent's school, place of employment, or place of worship; or

(b) governing the respondent's conduct at the respondent's school, place of employment, or place of worship.

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

(a) if the respondent has not been given notice of the petition for a protective order and

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an opportunity to be heard; and

(b) unless the petition establishes:

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

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

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

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

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

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

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

(7) (a) A respondent may request the court modify or vacate a protective order in accordance with Subsection (7)(b).

(b) Upon a respondent's request, the district court may modify or vacate a protective order after notice and a hearing, if the petitioner:

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

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

(8) (a) An order under this section does not prohibit the respondent from communicating with the petitioner's counsel regarding the protective order.

(b) The petitioner's or respondent's counsel may communicate with the opposing party in accordance with the Utah Rules of Professional Conduct.

Section 10. Section **78B-7-603** is amended to read:

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78B-7-603. Cohabitant abuse protective orders -- Ex parte cohabitant abuse protective orders -- Modification of orders -- Service of process -- Duties of the court.

(1) If it appears from a petition for a protective order or a petition to modify 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;

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(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-2-803;

(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

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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 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) through (l), Subsection (3)(a) as it refers to Subsections (2)(h) through (l), and Subsection (3)(b).

(7) Child support and spouse support orders issued as part of a protective order are subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income

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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 (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 protective order described in Subsection (6) may be dismissed or modified at any time in a divorce, parentage, custody, or guardianship proceeding

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that is pending between the parties to the protective order action if:

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

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

(13) (a) An order under this section does not prohibit the respondent from communicating with the petitioner's counsel regarding the protective order.

(b) The petitioner's or respondent's counsel may communicate with the opposing party in accordance with the Utah Rules of Professional Conduct.