

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: Luz Escamilla

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;
- ▶ 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



26 communicating with the petitioner's attorney regarding the civil protective order; and
27 ▶ makes technical and conforming changes.

28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **63I-1-263**, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196,
35 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws
36 of Utah 2021, Chapter 382

37 **76-5-108**, as last amended by Laws of Utah 2021, Chapter 262

38 **78B-7-120**, as enacted by Laws of Utah 2021, Chapters 180 and 180

39 **78B-7-204**, as last amended by Laws of Utah 2021, Chapter 262

40 **78B-7-404**, as last amended by Laws of Utah 2020, Chapter 142

41 **78B-7-504**, as last amended by Laws of Utah 2020, Chapter 142

42 **78B-7-603**, as last amended by Laws of Utah 2021, Chapters 159 and 262

43 ENACTS:

44 **63C-25-101**, Utah Code Annotated 1953

45 **63C-25-201**, Utah Code Annotated 1953

46 **63C-25-202**, Utah Code Annotated 1953



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

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

50 **CHAPTER 25. DOMESTIC VIOLENCE DATA TASK FORCE**

51 **Part 1. General Provisions**

52 **63C-25-101. Definitions.**

53 As used in this part:

54 (1) "Criminal justice system victim advocate" means the same as that term is defined in

55 Section **77-38-403**.

56 (2) "Cohabitant abuse protective order" means an order issued with or without notice to

57 the respondent under Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders.

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

60 (4) "Nongovernment organization victim advocate" means the same as that term is
61 defined in Section [77-38-403](#).

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

64 (6) "Victim" means an individual who is a victim of domestic violence, as defined in
65 Section [77-36-1](#).

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

67 **Part 2. Domestic Violence Data Task Force**

68 **63C-25-201. Domestic Violence Data Task Force -- Creation -- Members --**

69 **Compensation -- Quorum -- Staff.**

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

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

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

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

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

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

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

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

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

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

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

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

88 (k) the director of the Division of Indian Affairs, or the director's designee;
89 (l) one individual who represents the Administrative Office of the Courts appointed by
90 the state court administrator;

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

93 (n) one individual who represents the Statewide Association of Prosecutors appointed
94 by the association;

95 (o) one individual who represents the Utah Association of Criminal Defense Lawyers
96 appointed by the association; and

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

99 (i) one individual who represents a statewide domestic violence coalition, as defined in
100 45 C.F.R. Sec. 1370.2;

101 (ii) one criminal justice system advocate; and

102 (iii) one nongovernment organization victim advocate.

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

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

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

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

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

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

117 (A) Sections [63A-3-106](#) and [63A-3-107](#); and

118 (B) rules that the Division of Finance makes under Sections [63A-3-106](#) and

119 [63A-3-107.](#)

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

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

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

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

124 **63C-25-202. Task force duties -- Reporting.**

125 (1) The task force shall:

126 (a) gather information on:

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

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

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

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

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

136 (A) issued;

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

138 (C) dismissed under Subsection [78B-7-605\(1\)](#); and

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

141 (A) stalking;

142 (B) strangulation;

143 (C) violence in the presence of children; and

144 (D) threats of suicide or homicide; and

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

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

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

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

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

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

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

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

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

159 **63I-1-263. Repeal dates, Titles 63A to 63N.**

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

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

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

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

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

166 (3) Section **63A-5b-1003**, State Facility Energy Efficiency Fund, is repealed July 1,
167 2023.

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

170 (5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
171 1, 2028.

172 (6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,
173 2025.

174 (7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,
175 2024.

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

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

180 (10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is

181 repealed July 1, 2026.

182 (11) Title 63C, Chapter 25, Domestic Violence Data Task Force, is repealed December
183 31, 2023.

184 [~~(11)~~] (12) Title 63A, Chapter 16, Part 7, Data Security Management Council, is
185 repealed July 1, 2025.

186 [~~(12)~~] (13) Section [63G-6a-805](#), which creates the Purchasing from Persons with
187 Disabilities Advisory Board, is repealed July 1, 2026.

188 [~~(13)~~] (14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed
189 July 1, 2025.

190 [~~(14)~~] (15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed
191 July 1, 2024.

192 [~~(15)~~] (16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1,
193 2026.

194 [~~(16)~~] (17) Subsection [63J-1-602.1](#)(17), Nurse Home Visiting Restricted Account is
195 repealed July 1, 2026.

196 [~~(17)~~] (18) (a) Subsection [63J-1-602.1](#)(61), relating to the Utah Statewide Radio
197 System Restricted Account, is repealed July 1, 2022.

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

201 [~~(18)~~] (19) Subsection [63J-1-602.2](#)(5), referring to dedicated credits to the Utah
202 Marriage Commission, is repealed July 1, 2023.

203 [~~(19)~~] (20) Subsection [63J-1-602.2](#)(6), referring to the Trip Reduction Program, is
204 repealed July 1, 2022.

205 [~~(20)~~] (21) Subsection [63J-1-602.2](#)(24), related to the Utah Seismic Safety
206 Commission, is repealed January 1, 2025.

207 [~~(21)~~] (22) Title 63J, Chapter 4, Part 5, Resource Development Coordinating
208 Committee, is repealed July 1, 2027.

209 [~~(22)~~] (23) In relation to the advisory committee created in Subsection [63L-11-305](#)(3),
210 on July 1, 2022:

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

- 212 (b) Subsection [63L-11-305\(3\)](#), which creates the advisory committee, is repealed.
213 ~~[(23)]~~ (24) In relation to the Utah Substance Use and Mental Health Advisory Council,
214 on January 1, 2023:
- 215 (a) Sections [63M-7-301](#), [63M-7-302](#), [63M-7-303](#), [63M-7-304](#), and [63M-7-306](#) are
216 repealed;
- 217 (b) Section [63M-7-305](#), the language that states "council" is replaced with
218 "commission";
- 219 (c) Subsection [63M-7-305\(1\)](#) is repealed and replaced with:
220 "(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and
221 (d) Subsection [63M-7-305\(2\)](#) is repealed and replaced with:
222 "(2) The commission shall:
- 223 (a) provide ongoing oversight of the implementation, functions, and evaluation of the
224 Drug-Related Offenses Reform Act; and
225 (b) coordinate the implementation of Section [77-18-104](#) and related provisions in
226 Subsections [77-18-103\(2\)\(c\)](#) and (d).".
- 227 ~~[(24)]~~ (25) The Crime Victim Reparations and Assistance Board, created in Section
228 [63M-7-504](#), is repealed July 1, 2027.
- 229 ~~[(25)]~~ (26) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed
230 July 1, 2022.
- 231 ~~[(26)]~~ (27) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
232 2026.
- 233 ~~[(27)]~~ (28) Title 63N, Chapter 1, Part 5, Governor's Economic Development
234 Coordinating Council, is repealed July 1, 2024.
- 235 ~~[(28)]~~ (29) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.
- 236 ~~[(29)]~~ (30) Section [63N-2-512](#), related to the Hotel Impact Mitigation Fund, is repealed
237 July 1, 2028.
- 238 ~~[(30)]~~ (31) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed
239 January 1, 2021.
- 240 (b) Section [59-9-107](#) regarding tax credits against premium taxes is repealed for
241 calendar years beginning on or after January 1, 2021.
- 242 (c) Notwithstanding Subsection ~~[(30)]~~ (31)(b), an entity may carry forward a tax credit

243 in accordance with Section [59-9-107](#) if:

244 (i) the person is entitled to a tax credit under Section [59-9-107](#) on or before December
245 31, 2020; and

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

248 [~~(31)~~] [\(32\)](#) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is
249 repealed July 1, 2023.

250 [~~(32)~~] [\(33\)](#) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed
251 July 1, 2025.

252 [~~(33)~~] [\(34\)](#) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant
253 Program, is repealed January 1, 2028.

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

255 **76-5-108. Protective orders restraining abuse of another -- Violation.**

256 (1) Any person who is the respondent or defendant subject to a protective order, child
257 protective order, ex parte protective order, or ex parte child protective order issued under the
258 following who intentionally or knowingly violates that order after having been properly served
259 or having been present, in person or through court video conferencing, when the order was
260 issued, is guilty of a class A misdemeanor, except as a greater penalty may be provided in:

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

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

263 [\(b\)](#) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders;

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

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

267 [\(e\)](#) Title 80, Utah Juvenile Code.

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

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

271 **78B-7-120. Law enforcement training -- Domestic violence -- Lethality**
272 **assessments -- Forms -- Judicial education.**

273 (1) The Department of Public Safety shall:

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

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

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

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

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

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

284 [(f)] (vi) understanding cultural perceptions and common myths of domestic
285 violence[-];

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

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

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

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

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

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

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

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

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

304 [(c)] ~~strangulation;]~~

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

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

307 (d) with feedback from the Domestic Violence Data Task Force, created in Section
308 63C-25-201, develop a form to be used by a law enforcement agency to provide data regarding
309 lethality assessments performed by the law enforcement agency and disseminate the form to
310 law enforcement agencies in the state.

311 ~~[(6) The Department of Public Safety, with support from the Commission on Criminal~~
312 ~~and Juvenile Justice and the Division of Child and Family Services shall provide~~
313 ~~recommendations to the Law Enforcement and Criminal Justice Interim Committee not later~~
314 ~~than July 31 of each year and in the commission's annual report required by Section~~
315 ~~63M-7-205.]~~

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

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

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

323 **78B-7-204. Content of orders -- Modification of orders -- Penalties.**

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

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

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

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

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

335 (e) determine ownership and possession of personal property and direct the appropriate

336 law enforcement officer to attend and supervise the petitioner's or respondent's removal of
337 personal property.

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

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

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

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

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

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

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

352 ~~[(3)]~~ (4) (a) If the child who is the subject of the child protective order attends the same
353 school or place of worship as the respondent, or is employed at the same place of employment
354 as the respondent, the court:

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

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

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

360 ~~[(4)]~~ (5) (a) A respondent may petition the court to modify or vacate a child protective
361 order after notice and a hearing.

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

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

365 (ii) the court shall consider:

366 (A) the nature and duration of the abuse;

- 367 (B) the pain and trauma inflicted on the child as a result of the abuse;
- 368 (C) if the respondent is a parent of the child, any reunification services provided in
369 accordance with Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings; and
- 370 (D) any other evidence the court finds relevant to the determination of the child's best
371 interests, including recommendations by the other parent or a guardian of the child, or a mental
372 health professional.

373 (c) The child is not required to attend the hearing described in Subsection [~~(4)~~] (5)(a).
374 Section 8. Section **78B-7-404** is amended to read:

375 **78B-7-404. Dating violence protective orders -- Ex parte dating violence**
376 **protective orders -- Modification of orders -- Service of process -- Duties of the court.**

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

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

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

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

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

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

392 (c) order that the respondent:

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

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

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

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

397 (iii) stay away from any specified place frequented by the petitioner or any designated

398 family or household member;

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

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

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

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

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

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

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

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

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

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

420 (b) unless the petition establishes:

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

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

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

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

428 (b) make reasonable efforts at the hearing to ensure that the dating violence protective

429 order is understood by the petitioner and the respondent, if present;

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

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

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

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

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

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

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

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

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

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

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

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

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

459 (b) The petitioner's or respondent's counsel may communicate with the opposing party

460 in accordance with the Utah Rules of Professional Conduct.

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

462 **78B-7-504. Sexual violence protective orders -- Ex parte protective orders --**
463 **Modification of orders.**

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

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

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

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

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

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

478 (c) order that the respondent:

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

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

481 (A) school and its premises;

482 (B) place of employment and its premises; or

483 (C) place of worship and its premises; or

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

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

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

490 (3) The district court may grant the following relief in a sexual violence protective

491 order or a modification of a sexual violence protective order, after notice and a hearing,
492 regardless of whether the respondent appears:

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

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

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

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

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

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

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

509 (b) unless the petition establishes:

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

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

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

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

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

520 (c) transmit electronically, by the end of the business day after the day on which the
521 court issues the order, a copy of the sexual violence protective order to a local law enforcement

522 agency designated by the petitioner; and

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

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

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

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

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

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

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

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

539 **78B-7-603. Cohabitant abuse protective orders -- Ex parte cohabitant abuse**
540 **protective orders -- Modification of orders -- Service of process -- Duties of the court.**

541 (1) If it appears from a petition for a protective order or a petition to modify a
542 protective order that domestic violence or abuse has occurred, that there is a substantial
543 likelihood domestic violence or abuse will occur, or that a modification of a protective order is
544 required, a court may:

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

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

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

552 (a) enjoin the respondent from threatening to commit domestic violence or abuse,

553 committing domestic violence or abuse, or harassing the petitioner or any designated family or
554 household member;

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

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

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

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

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

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

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

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

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

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

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

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

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

584 removal of personal belongings;

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

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

588 (j) order the appointment of an attorney guardian ad litem under Sections [78A-2-703](#)
589 and [78A-2-803](#);

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

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

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

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

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

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

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

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

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

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

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

613 (e) if the individual is a respondent or defendant subject to a court order that meets the
614 qualifications outlined in 18 U.S.C. Sec. 922(g)(8), transmit within 48 hours, excluding

615 Saturdays, Sundays, and legal holidays, a record of the order to the Bureau of Criminal
616 Identification that includes:

- 617 (i) an agency record identifier;
- 618 (ii) the individual's name, sex, race, and date of birth;
- 619 (iii) the issue date, conditions, and expiration date for the protective order; and
- 620 (iv) if available, the individual's social security number, government issued driver
621 license or identification number, alien registration number, government passport number, state
622 identification number, or FBI number.

623 (6) Each protective order shall include two separate portions, one for provisions, the
624 violation of which are criminal offenses, and one for provisions, the violation of which are civil
625 offenses, as follows:

- 626 (a) criminal offenses are those under Subsections (2)(a) through (g), and under
627 Subsection (3)(a) as it refers to Subsections (2)(a) through (g); and
- 628 (b) civil offenses are those under Subsections (2)(h) through (l), Subsection (3)(a) as it
629 refers to Subsections (2)(h) through (l), and Subsection (3)(b).

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

634 (8) (a) The county sheriff that receives the order from the court, under Subsection (5),
635 shall provide expedited service for protective orders issued in accordance with this part, and
636 shall transmit verification of service of process, when the order has been served, to the
637 statewide domestic violence network described in Section [78B-7-113](#).

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

- 640 (i) has contact with the respondent and service by that law enforcement agency is
641 possible; or
- 642 (ii) determines that under the circumstances, providing service of process on the
643 respondent is in the best interests of the petitioner.

644 (9) (a) When an order is served on a respondent in a jail or other holding facility, the
645 law enforcement agency managing the facility shall make a reasonable effort to provide notice

646 to the petitioner at the time the respondent is released from incarceration.

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

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

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

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

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

661 (12) A civil provision of a protective order described in Subsection (6) may be
662 dismissed or modified at any time in a divorce, parentage, custody, or guardianship proceeding
663 that is pending between the parties to the protective order action if:

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

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

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

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