

Senator Todd D. Weiler proposes the following substitute bill:

PROTECTIVE ORDER AND STALKING INJUNCTION

EXPUNGEMENT

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: _____

LONG TITLE

General Description:

This bill addresses the expungement of protective orders and stalking injunctions.

Highlighted Provisions:

This bill:

- ▶ defines terms relating to the expungement of protective orders and stalking injunctions;
- ▶ makes statutory provisions for the expungement of protective orders and stalking injunctions retroactive;
- ▶ allows for the expungement of certain protective orders and stalking injunctions;
- ▶ provides the requirements for expunging certain protective orders and stalking injunctions;
- ▶ addresses the distribution and effect of an order for expungement of certain protective orders and stalking injunctions; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 ENACTS:

29 **78B-7-1001**, Utah Code Annotated 1953

30 **78B-7-1002**, Utah Code Annotated 1953

31 **78B-7-1003**, Utah Code Annotated 1953

32 **78B-7-1004**, Utah Code Annotated 1953

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

35 Section 1. Section **78B-7-1001** is enacted to read:

36 **Part 10. Expungement of Protective Orders and Stalking Injunctions**

37 **78B-7-1001. Definitions.**

38 (1) (a) Except as provided in Subsection (1)(b), "agency" means a state, county, or
39 local government entity that generates or maintains records relating to a civil order for which
40 expungement may be ordered.

41 (b) "Agency" does not include the Division of Child and Family Services created in
42 Section [62A-4a-103](#).

43 (2) "Civil order" means:

44 (a) an ex parte civil protective order;

45 (b) an ex parte civil stalking injunction;

46 (c) a civil protective order; or

47 (d) a civil stalking injunction.

48 (3) "Expunge" means to seal or otherwise restrict access to an individual's record held
49 by an agency when the record includes a civil order.

50 (4) "Petitioner" means an individual petitioning for expungement of a civil order under
51 this part.

52 Section 2. Section **78B-7-1002** is enacted to read:

53 **78B-7-1002. Retroactive application.**

54 The provisions of this part apply retroactively to all civil orders issued before, on, or
55 after May 4, 2022.

56 Section 3. Section **78B-7-1003** is enacted to read:

57 78B-7-1003. Requirements for expungement of protective order or stalking
58 injunction.

59 (1) (a) An individual against whom a civil order is sought may petition the court to
60 expunge records of the civil order.

61 (b) A petition under Subsection (1) shall be filed in accordance with the Utah Rules of
62 Civil Procedure.

63 (2) (a) The petitioner shall mail a copy of the petition, by first-class mail within 10
64 days after the day on which the petition is filed, to the individual whom filed the civil order
65 against the petitioner.

66 (b) The individual who filed the civil order against the petitioner:

67 (i) may file a written objection with the court within 30 days after the day on which the
68 petition is received by the individual; and

69 (ii) if the individual files a written objection, provide a copy of the written objection to
70 the petitioner.

71 (c) If the court receives a written objection to the petition for expungement of a civil
72 order, the court shall:

73 (i) set a date for a hearing on the petition;

74 (ii) provide notice at least 30 days before the day on which the hearing is held to:

75 (A) all parties of the civil order; and

76 (B) any other person or agency that the court has reason to believe may have relevant
77 information related to the expungement of the civil order.

78 (d) The petitioner may respond, in writing, to any written objection within 14 days after
79 the day on which the written objection is received by the court.

80 (3) If no written objection is received within 60 days from the day on which the
81 petition for expungement is filed under Subsection (1), the court may grant the expungement in
82 accordance with Subsection (4) without a hearing.

83 (4) (a) A court may expunge an ex parte civil protective order or an ex parte civil
84 stalking injunction if:

85 (i) the ex parte civil protective order or the ex parte civil stalking injunction was issued
86 but:

87 (A) the ex parte civil protective order or the ex parte civil stalking injunction is

88 dismissed, dissolved, or expired upon a hearing by the court;

89 (B) the court did not issue a civil protective order or a civil stalking injunction on the
90 same circumstances for which the ex parte civil protective order or the ex parte civil stalking
91 injunction was issued; and

92 (C) at least 30 days have passed from the day on which the ex parte civil protective
93 order or the ex parte civil stalking injunction was issued; or

94 (ii) (A) the individual who filed the ex parte civil protective order or the ex parte civil
95 stalking injunction failed to appear for the hearing on the ex parte civil protective order or ex
96 parte civil stalking injunction; and

97 (B) at least 30 days have passed from the day on which the hearing on the ex parte civil
98 protective order or the ex parte civil stalking injunction was set to occur, including any
99 continuance, postponement, or rescheduling of the hearing.

100 (b) A court may expunge a civil protective order or a civil stalking injunction if:

101 (i) the civil protective order or the civil stalking injunction has been dismissed,
102 dissolved, or vacated; and

103 (ii) three years have passed from the day on which the civil protective order or the civil
104 stalking injunction is dismissed, dissolved, or vacated.

105 Section 4. Section **78B-7-1004** is enacted to read:

106 **78B-7-1004. Distribution and effect of order of expungement - Penalty.**

107 (1) An individual who receives an order of expungement under Section [78B-7-1003](#)
108 shall be responsible for delivering a copy of the order of expungement to any affected agency.

109 (2) Upon receipt of an order of expungement as described in Subsection (1), an agency
110 shall expunge all records described in the expungement order that are under the control of the
111 agency.

112 (3) Upon entry of an expungement order by a court under Section [78B-7-1004](#):

113 (a) the civil order is considered to never have occurred; and

114 (b) the petitioner may reply to an inquiry on the matter as though there was never a
115 civil order.

116 (4) (a) Unless ordered by a court to do so, an agency or official may not divulge
117 information or records that have been expunged under this part.

118 (b) An expungement order may not restrict an agency's use or dissemination of records

119 in the agency's ordinary course of business until the agency has received a copy of the
120 expungement order.

121 (c) Any action taken by an agency after issuance of the expungement order but before
122 the agency's receipt of a copy of the expungement order may not be invalidated by the order.

123 (5) An expungement order under this part may not:

124 (a) terminate or invalidate any pending administrative proceedings or actions of which
125 the individual had notice according to the records of the administrative body before issuance of
126 the expungement order;

127 (b) affect the enforcement of any order or findings issued by an administrative body
128 pursuant to the administrative body's lawful authority prior to issuance of the expungement
129 order; or

130 (c) prevent an agency from maintaining, sharing, or distributing any record required by
131 law.

132 (6) An employee or agent of an agency that is prohibited from disseminating
133 information from an expunged record under this section who knowingly or intentionally
134 discloses identifying information from the expunged record, unless allowed by law, is guilty of
135 a class A misdemeanor.

136 (7) Records expunged under this part may be released to, or viewed by, the following
137 individuals:

138 (a) the petitioner; or

139 (b) parties to a civil action arising out of the expunged civil order, providing the
140 information is kept confidential and utilized only in the action.