

Representative Stephanie Pitcher proposes the following substitute bill:

PROTECTIVE ORDER AND STALKING INJUNCTION

EXPUNGEMENT

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: Stephanie Pitcher

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 This bill provides a special effective date.

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 As used in this part:

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

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

44 (2) "Civil order" means:

45 (a) an ex parte civil protective order;

46 (b) an ex parte civil stalking injunction;

47 (c) a civil protective order; or

48 (d) a civil stalking injunction.

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

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

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

54 **78B-7-1002. Retroactive application.**

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

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

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

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

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

64 (2) (a) The petitioner shall provide notice to the individual whom filed the civil order
65 against the petitioner in accordance with Rule 4 of the Utah Rules of Civil Procedure.

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 court may expunge an ex parte civil protective order or an ex parte civil stalking
84 injunction if:

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

87 (i) 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 (ii) 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;

92 (iii) 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;

94 (iv) the petitioner has not been arrested, charged, or convicted for violating the ex parte
95 civil protective order or ex parte civil stalking injunction; and

96 (v) there are no criminal proceedings pending against the petitioner in the state; or

97 (b) (i) the individual who filed the ex parte civil protective order or the ex parte civil
98 stalking injunction failed to appear for the hearing on the ex parte civil protective order or ex
99 parte civil stalking injunction;

100 (ii) at least 30 days have passed from the day on which the hearing on the ex parte civil
101 protective order or the ex parte civil stalking injunction was set to occur, including any
102 continuance, postponement, or rescheduling of the hearing;

103 (iii) the petitioner has not been arrested, charged, or convicted for violating the ex parte
104 civil protective order or ex parte civil stalking injunction; and

105 (iv) there are no criminal proceedings pending against the petitioner in the state.

106 (5) A court may expunge a civil protective order or a civil stalking injunction if:

107 (a) the civil protective order or the civil stalking injunction has been dismissed,
108 dissolved, vacated, or expired;

109 (b) three years have passed from the day on which the civil protective order or the civil
110 stalking injunction is dismissed, dissolved, vacated, or expired;

111 (c) the petitioner has not been arrested, charged, or convicted for violating the civil
112 protective order or the civil stalking injunction; and

113 (d) there are no criminal proceedings pending against the petitioner in the state.

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

115 **78B-7-1004. Distribution and effect of order of expungement - Penalty.**

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

118 (2) Upon receipt of an order of expungement as described in Subsection (1), an agency

119 shall expunge all records described in the expungement order that are under the control of the
120 agency.

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

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

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

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

127 (b) An expungement order may not restrict an agency's use or dissemination of records
128 in the agency's ordinary course of business until the agency has received a copy of the
129 expungement order.

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

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

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

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

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

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

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

147 (a) the petitioner; or

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

150 (8) This part does not preclude a court from considering the same circumstances or
151 evidence for which an expunged civil order was issued in any proceeding that occurs after the
152 civil order is expunged.

153 Section 5. **Effective date.**

154 This bill takes effect on July 1, 2022.