

PROTECTIVE ORDER AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: Stephanie Pitcher

LONG TITLE**Committee Note:**

The Law Enforcement and Criminal Justice Interim Committee recommended this bill.

Legislative Vote: 13 voting for 0 voting against 4 absent

General Description:

This bill concerns pretrial protective orders, jail release agreements, and jail release court orders.

Highlighted Provisions:

This bill:

- ▶ amends the definitions of "jail release agreement" and "jail release court order";
- ▶ provides expiration provisions for certain pretrial protective orders; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-7-801, as last amended by Laws of Utah 2022, Chapter 430**78B-7-803**, as last amended by Laws of Utah 2021, Chapter 159

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

Section 1. Section **78B-7-801** is amended to read:

78B-7-801. Definitions.

As used in this part:

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

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

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

(B) threatening or harassing the alleged victim; or

(C) knowingly entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim, unless, after a law enforcement officer or the law enforcement officer's employing agency notifies or attempts to notify the alleged victim, the individual enters the premises while accompanied by a law enforcement officer for the purpose of retrieving the individual's personal belongings; and

(ii) that specifies other conditions of release from jail or arrest.

(b) "Jail release agreement" includes a written agreement that includes the conditions described in Section (1)(a) entered into by a minor who is taken into custody or placed in detention or a shelter facility under Section [80-6-201](#).

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

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

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

(ii) threatening or harassing the alleged victim; or

(iii) knowingly entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim, unless, after a law enforcement officer or the law enforcement officer's employing agency notifies or attempts to notify the alleged victim, the individual enters the premises while accompanied by a law enforcement officer for the purpose of retrieving the individual's personal belongings; and

- 59 (b) specifies other conditions of release from jail.
- 60 (3) "Minor" means the same as that term is defined in Section 80-1-102.
- 61 (4) "Offense against a child or vulnerable adult" means the commission or attempted
62 commission of an offense described in:
- 63 (a) Section 76-5-109, child abuse;
- 64 (b) Section 76-5-109.2, aggravated child abuse;
- 65 (c) Section 76-5-109.3, child abandonment;
- 66 (d) Section 76-5-110, abuse or neglect of a child with a disability;
- 67 (e) Section 76-5-111, abuse of a vulnerable adult;
- 68 (f) Section 76-5-111.2, aggravated abuse of a vulnerable adult;
- 69 (g) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult;
- 70 (h) Section 76-5-111.4, financial exploitation of a vulnerable adult;
- 71 (i) Section 76-5-114, commission of domestic violence in the presence of a child; or
- 72 (j) Section 76-9-702.1, sexual battery.
- 73 (5) "Qualifying offense" means:
- 74 (a) domestic violence;
- 75 (b) an offense against a child or vulnerable adult; or
- 76 (c) the commission or attempted commission of an offense described in Section
77 76-9-702.1 or Title 76, Chapter 5, Part 4, Sexual Offenses.
- 78 Section 2. Section 78B-7-803 is amended to read:
- 79 **78B-7-803. Pretrial protective orders.**
- 80 (1) (a) When an alleged perpetrator is charged with a crime involving a qualifying
81 offense, the court shall, at the time of the alleged perpetrator's court appearance under Section
82 77-36-2.6:
- 83 (i) determine the necessity of imposing a pretrial protective order or other condition of
84 pretrial release; and
- 85 (ii) state the court's findings and determination in writing.
- 86 (b) Except as provided in Subsection (4), in any criminal case, the court may, during
87 any court hearing where the alleged perpetrator is present, issue a pretrial protective order,
88 pending trial.
- 89 (2) A court may include any of the following provisions in a pretrial protective order:

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

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

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

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

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

(f) an order identifying and requiring an individual designated by the victim to communicate between the alleged perpetrator and the victim if and to the extent necessary for family related matters;

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

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

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

(4) A pretrial protective order issued under this section against an alleged perpetrator who is a minor expires on the earlier of:

(a) the day on which the court issues an order against the alleged perpetrator under Section 78B-7-804 or 78B-7-805 or otherwise makes a disposition of the alleged perpetrator's case under Title 80, Chapter 6, Part 7, Adjudication and Disposition; or

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

(5) A pretrial protective order issued under this section against an alleged perpetrator who is not a minor expires on the earliest of:

- 121 (a) the day on which the court dismisses the case;
122 (b) the day on which the court dismisses the pretrial protective order; or
123 (c) the day on which the court issues an order against the alleged perpetrator under
124 Section [78B-7-804](#) or [78B-7-805](#).