

1 **DOMESTIC VIOLENCE AMENDMENTS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Todd D. Weiler**

5 House Sponsor: Ryan D. Wilcox

6 Cosponsor:

7 Evan J. Vickers

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8  
9 **LONG TITLE**

10 **General Description:**

11 This bill amends provisions relating to domestic violence.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ requires a law enforcement officer to conduct a lethality assessment when
- 15 responding to a report of domestic violence between intimate partners;
- 16 ▶ describes the protocol for a lethality assessment;
- 17 ▶ requires a law enforcement officer who conducts a lethality assessment to:
  - 18 • include the results of the assessment with a probable cause statement and
  - 19 incident report; and
  - 20 • submit the results to the Department of Public Safety;
- 21 ▶ requires the Department of Public Safety to:
  - 22 • develop and maintain a reporting mechanism by which law enforcement can
  - 23 submit lethality assessment data;
  - 24 • provide analytical support to a law enforcement officer who submits the results
  - 25 of a lethality assessment;
  - 26 • create and maintain a database of lethality assessment data; and
  - 27 • in coordination with the Administrative Office of the Courts, provide

- 28 information and training to certain court personnel regarding lethality assessments;  
29       ▶ includes a lethality assessment as part of the information that may be considered as  
30 part of pretrial processes; and  
31       ▶ makes technical and conforming changes.

32 **Money Appropriated in this Bill:**

- 33       This bill appropriates:  
34       ▶ to the Department of Public Safety -- Programs and Operations -- Department  
35 Intelligence Center, as a one-time appropriation:  
36           • from the General Fund, One-time, \$100,000; and  
37       ▶ to the Department of Public Safety -- Programs and Operations -- Department  
38 Intelligence Center, as an ongoing appropriation:  
39           • from the General Fund, \$1,205,000.

40 **Other Special Clauses:**

41       None

42 **Utah Code Sections Affected:**

43 AMENDS:

- 44       **53-1-106**, as last amended by Laws of Utah 2021, Chapters 344, 360  
45       **77-20-202**, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4  
46       **77-20-205**, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4  
47       **77-36-2.1**, as last amended by Laws of Utah 2020, Chapter 142  
48       **77-36-2.2**, as last amended by Laws of Utah 2022, Chapter 430  
49       **78B-7-120**, as enacted by Laws of Utah 2021, Chapter 180  
50       **78B-7-803**, as last amended by Laws of Utah 2021, Chapter 159

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

53       Section 1. Section **53-1-106** is amended to read:

54       **53-1-106. Department duties -- Powers.**

- 55 (1) In addition to the responsibilities contained in this title, the department shall:
- 56 (a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic
- 57 Code, including:
- 58 (i) setting performance standards for towing companies to be used by the department,
- 59 as required by Section 41-6a-1406; and
- 60 (ii) advising the Department of Transportation regarding the safe design and operation
- 61 of school buses, as required by Section 41-6a-1304;
- 62 (b) make rules to establish and clarify standards pertaining to the curriculum and
- 63 teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;
- 64 (c) aid in enforcement efforts to combat drug trafficking;
- 65 (d) meet with the Division of Technology Services to formulate contracts, establish
- 66 priorities, and develop funding mechanisms for dispatch and telecommunications operations;
- 67 (e) provide assistance to the Crime Victim Reparations Board and the Utah Office for
- 68 Victims of Crime in conducting research or monitoring victims' programs, as required by
- 69 Section 63M-7-505;
- 70 (f) develop sexual assault exam protocol standards in conjunction with the Utah
- 71 Hospital Association;
- 72 (g) engage in emergency planning activities, including preparation of policy and
- 73 procedure and rulemaking necessary for implementation of the federal Emergency Planning
- 74 and Community Right to Know Act of 1986, as required by Section 53-2a-702;
- 75 (h) implement the provisions of Section 53-2a-402, the Emergency Management
- 76 Assistance Compact;
- 77 (i) ensure that any training or certification required of a public official or public
- 78 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter
- 79 22, State Training and Certification Requirements, if the training or certification is required:
- 80 (i) under this title;
- 81 (ii) by the department; or

82 (iii) by an agency or division within the department;  
83 (j) employ a law enforcement officer as a public safety liaison to be housed at the State  
84 Board of Education who shall work with the State Board of Education to:

85 (i) support training with relevant state agencies for school resource officers as  
86 described in Section [53G-8-702](#);

87 (ii) coordinate the creation of model policies and memorandums of understanding for a  
88 local education agency and a local law enforcement agency; and

89 (iii) ensure cooperation between relevant state agencies, a local education agency, and  
90 a local law enforcement agency to foster compliance with disciplinary related statutory  
91 provisions, including Sections [53E-3-516](#) and [53G-8-211](#); [~~and~~]

92 (k) provide for the security and protection of public officials, public officials' staff, and  
93 the capitol hill complex in accordance with the provisions of this part~~[-]~~; and

94 (l) fulfill the duties described in Sections [77-36-2.1](#) and [78B-7-120](#) related to lethality  
95 assessments.

96 (2) (a) The department shall establish a schedule of fees as required or allowed in this  
97 title for services provided by the department.

98 (b) All fees not established in statute shall be established in accordance with Section  
99 [63J-1-504](#).

100 (3) The department may establish or contract for the establishment of an Organ  
101 Procurement Donor Registry in accordance with Section [26-28-120](#).

102 Section 2. Section **77-20-202** is amended to read:

103 **77-20-202. Collection of pretrial information.**

104 (1) On or after May 4, 2022, when an individual is arrested without a warrant for an  
105 offense and booked at a jail facility, an employee at the jail facility, or an employee of a pretrial  
106 services program, shall submit the following information to the court with the probable cause  
107 statement to the extent that the information is reasonably available to the employee:

108 (a) identification information for the individual, including:

- 109 (i) the individual's legal name and any known aliases;
- 110 (ii) the individual's date of birth;
- 111 (iii) the individual's state identification number;
- 112 (iv) the individual's mobile phone number; and
- 113 (v) the individual's email address;
- 114 (b) the individual's residential address;
- 115 (c) any pending criminal charge or warrant for the individual, including the offense
- 116 tracking number of the current offense for which the individual is booked;
- 117 (d) the individual's probation or parole supervision status;
- 118 (e) whether the individual was on pretrial release for another criminal offense prior to
- 119 the booking of the individual for the current criminal offense;
- 120 (f) the individual's financial circumstances to the best of the individual's knowledge at
- 121 the time of booking, including:
  - 122 (i) the individual's current employer;
  - 123 (ii) the individual's monthly income, including any alimony or child support that
  - 124 contributes to the individual's monthly income;
  - 125 (iii) the individual's monthly expenses, including any alimony or child support
  - 126 obligation that the individual is responsible for paying;
  - 127 (iv) the individual's ownership of, or any interest in, personal or real property,
  - 128 including any savings or checking accounts or cash;
  - 129 (v) the number, ages, and relationships of any dependents;
  - 130 (vi) any financial support or benefit that the individual receives from a state or federal
  - 131 government; and
  - 132 (vii) any other information about the individual's financial circumstances that may be
  - 133 relevant; [~~and~~]
  - 134 (g) any ties the individual has to the community, including:
    - 135 (i) the length of time that the individual has been at the individual's residential address;

136 (ii) any enrollment in a local college, university, or trade school; and  
137 (iii) the name and contact information for any family member or friend that the  
138 individual believes would be willing to provide supervision of the individual[-]; and  
139 (h) the results of a lethality assessment completed in accordance with Section  
140 77-36-2.1, if any.

141 (2) Upon request, the jail facility, or the pretrial services program, shall provide the  
142 information described in Subsection (1) to the individual, the individual's attorney, or the  
143 prosecuting attorney.

144 (3) Any information collected from an individual under Subsection (1) is inadmissible  
145 in any court proceeding other than:

146 (a) a criminal proceeding addressing the individual's pretrial release or indigency for  
147 the offense, or offenses, for which the individual was arrested or charged with; or

148 (b) another criminal proceeding regarding prosecution for providing a false statement  
149 under Subsection (1).

150 (4) Nothing in this section prohibits a court and a county from entering into an  
151 agreement regarding information to be submitted to the court with a probable cause statement.

152 Section 3. Section **77-20-205** is amended to read:

153 **77-20-205. Pretrial release by a magistrate or judge.**

154 (1) (a) At the time that a magistrate issues a warrant of arrest, or finds there is probable  
155 cause to support the individual's arrest under Rule 9 of the Utah Rules of Criminal Procedure,  
156 the magistrate shall issue a temporary pretrial status order that:

157 (i) releases the individual on the individual's own recognizance during the time the  
158 individual awaits trial or other resolution of criminal charges;

159 (ii) designates a condition, or a combination of conditions, to be imposed upon the  
160 individual's release during the time the individual awaits trial or other resolution of criminal  
161 charges; or

162 (iii) orders the individual be detained during the time the individual awaits trial or

163 other resolution of criminal charges.

164 (b) At the time that a magistrate issues a summons, the magistrate may issue a  
165 temporary pretrial status order that:

166 (i) releases the individual on the individual's own recognizance during the time the  
167 individual awaits trial or other resolution of criminal charges; or

168 (ii) designates a condition, or a combination of conditions, to be imposed upon the  
169 individual's release during the time the individual awaits trial or other resolution of criminal  
170 charges.

171 (2) (a) Except as provided in Subsection (2)(c), at an individual's first appearance  
172 before the court, the magistrate or judge shall issue a pretrial status order that:

173 (i) releases the individual on the individual's own recognizance during the time the  
174 individual awaits trial or other resolution of criminal charges;

175 (ii) designates a condition, or a combination of conditions, to be imposed upon the  
176 individual's release during the time the individual awaits trial or other resolution of criminal  
177 charges; or

178 (iii) orders the individual be detained during the time the individual awaits trial or  
179 other resolution of criminal charges.

180 (b) In making a determination under Subsection (2)(a), the magistrate or judge may not  
181 give any deference to a magistrate's decision in a temporary pretrial status order.

182 (c) The magistrate or judge shall delay the issuance of a pretrial status order described  
183 in Subsection (2)(a):

184 (i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for  
185 pretrial detention as described in Section [77-20-206](#);

186 (ii) if a party requests a delay; or

187 (iii) if there is good cause to delay the issuance.

188 (d) If a magistrate or judge delays the issuance of a pretrial status order under  
189 Subsection (2)(c), the magistrate or judge shall extend the temporary pretrial status order until

190 the issuance of a pretrial status order.

191 (3) In making a determination about pretrial release under Subsection (1) or (2), a  
192 magistrate or judge shall impose only conditions of release that are reasonably available and  
193 necessary to reasonably ensure:

194 (a) the individual's appearance in court when required;

195 (b) the safety of any witnesses or victims of the offense allegedly committed by the  
196 individual;

197 (c) the safety and welfare of the public; and

198 (d) that the individual will not obstruct, or attempt to obstruct, the criminal justice  
199 process.

200 (4) Except as provided in Subsection (5), a magistrate or judge may impose a  
201 condition, or combination of conditions, under Subsection (1) or (2) that requires an individual  
202 to:

203 (a) not commit a federal, state, or local offense during the period of pretrial release;

204 (b) avoid contact with a victim of the alleged offense;

205 (c) avoid contact with a witness who:

206 (i) may testify concerning the alleged offense; and

207 (ii) is named in the pretrial status order;

208 (d) not consume alcohol or any narcotic drug or other controlled substance unless  
209 prescribed by a licensed medical practitioner;

210 (e) submit to drug or alcohol testing;

211 (f) complete a substance abuse evaluation and comply with any recommended  
212 treatment or release program;

213 (g) submit to electronic monitoring or location device tracking;

214 (h) participate in inpatient or outpatient medical, behavioral, psychological, or  
215 psychiatric treatment;

216 (i) maintain employment or actively seek employment if unemployed;



- 217 (j) maintain or commence an education program;
- 218 (k) comply with limitations on where the individual is allowed to be located or the  
219 times that the individual shall be, or may not be, at a specified location;
- 220 (l) comply with specified restrictions on personal associations, place of residence, or  
221 travel;
- 222 (m) report to a law enforcement agency, pretrial services program, or other designated  
223 agency at a specified frequency or on specified dates;
- 224 (n) comply with a specified curfew;
- 225 (o) forfeit or refrain from possession of a firearm or other dangerous weapon;
- 226 (p) if the individual is charged with an offense against a child, limit or prohibit access  
227 to any location or occupation where children are located, including any residence where  
228 children are on the premises, activities where children are involved, locations where children  
229 congregate, or where a reasonable person would know that children congregate;
- 230 (q) comply with requirements for house arrest;
- 231 (r) return to custody for a specified period of time following release for employment,  
232 schooling, or other limited purposes;
- 233 (s) remain in custody of one or more designated individuals who agree to:
  - 234 (i) supervise and report on the behavior and activities of the individual; and
  - 235 (ii) encourage compliance with all court orders and attendance at all required court  
236 proceedings;
- 237 (t) comply with a financial condition; or
- 238 (u) comply with any other condition that is reasonably available and necessary to  
239 ensure compliance with Subsection (3).
- 240 (5) (a) If a county or municipality has established a pretrial services program, the  
241 magistrate or judge shall consider the services that the county or municipality has identified as  
242 available in determining what conditions of release to impose.
- 243 (b) The magistrate or judge may not order conditions of release that would require the

244 county or municipality to provide services that are not currently available from the county or  
245 municipality.

246 (c) Notwithstanding Subsection (5)(a), the magistrate or judge may impose conditions  
247 of release not identified by the county or municipality so long as the condition does not require  
248 assistance or resources from the county or municipality.

249 (6) (a) If the magistrate or judge determines that a financial condition, other than an  
250 unsecured bond, is necessary to impose as a condition of release, the magistrate or judge shall  
251 consider the individual's ability to pay when determining the amount of the financial condition.

252 (b) If the magistrate or judge determines that a financial condition is necessary to  
253 impose as a condition of release, and a bail commissioner fixed a financial condition for the  
254 individual under Section 77-20-204, the magistrate or judge may not give any deference to:

255 (i) the bail commissioner's action to fix a financial condition; or

256 (ii) the amount of the financial condition that the individual was required to pay for  
257 pretrial release.

258 (c) If a magistrate or judge orders a financial condition as a condition of release, the  
259 judge or magistrate shall set the financial condition at a single amount per case.

260 (7) In making a determination about pretrial release under this section, the magistrate  
261 or judge may:

262 (a) rely upon information contained in:

263 (i) the indictment or information;

264 (ii) any sworn or probable cause statement or other information provided by law  
265 enforcement;

266 (iii) a pretrial risk assessment;

267 (iv) an affidavit of indigency described in Section 78B-22-201.5;

268 (v) witness statements or testimony; [or]

269 (vi) the results of a lethality assessment completed in accordance with Section  
270 77-36-2.1; or

271            [~~(vi)~~] (vii) any other reliable record or source, including proffered evidence; and  
272            (b) consider:  
273            (i) the nature and circumstances of the offense, or offenses, that the individual was  
274 arrested for, or charged with, including:  
275            (A) whether the offense is a violent offense; and  
276            (B) the vulnerability of a witness or alleged victim;  
277            (ii) the nature and circumstances of the individual, including the individual's:  
278            (A) character;  
279            (B) physical and mental health;  
280            (C) family and community ties;  
281            (D) employment status or history;  
282            (E) financial resources;  
283            (F) past criminal conduct;  
284            (G) history of drug or alcohol abuse; and  
285            (H) history of timely appearances at required court proceedings;  
286            (iii) the potential danger to another individual, or individuals, posed by the release of  
287 the individual;  
288            (iv) whether the individual was on probation, parole, or release pending an upcoming  
289 court proceeding at the time the individual allegedly committed the offense or offenses;  
290            (v) the availability of:  
291            (A) other individuals who agree to assist the individual in attending court when  
292 required; or  
293            (B) supervision of the individual in the individual's community;  
294            (vi) the eligibility and willingness of the individual to participate in various treatment  
295 programs, including drug treatment; or  
296            (vii) other evidence relevant to the individual's likelihood of fleeing or violating the  
297 law if released.

298 (8) An individual arrested for violation of a jail release agreement, or a jail release  
299 court order, issued in accordance with Section [78B-7-802](#):

300 (a) may not be released before the individual's first appearance before a magistrate or  
301 judge; and

302 (b) may be denied pretrial release by the magistrate or judge under Subsection (2).  
303 Section 4. Section [77-36-2.1](#) is amended to read:

304 **77-36-2.1. Duties of law enforcement officers -- Notice to victims -- Lethality**  
305 **assessments.**

306 (1) For purposes of this section:

307 (a) (i) "Dating relationship" means a social relationship of a romantic or intimate  
308 nature, or a relationship which has romance or intimacy as a goal by one or both parties,  
309 regardless of whether the relationship involves sexual intimacy.

310 (ii) "Dating relationship" does not include casual fraternization in a business,  
311 educational, or social context.

312 (b) "Intimate partner" means an emancipated individual under Section [15-2-1](#) or an  
313 individual who is 16 years old or older who:

314 (i) is or was a spouse of the other party;

315 (ii) is or was living as if a spouse of the other party;

316 (iii) has or had one or more children in common with the other party;

317 (iv) is the biological parent of the other party's unborn child;

318 (v) is or was in a consensual sexual relationship with the other party; or

319 (vi) is or was in a dating relationship with the other party.

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

322 (d) "Primary purpose domestic violence organization" means a contract provider of  
323 domestic violence services as described in Section [80-2-301](#).

324 (2) A law enforcement officer who responds to an allegation of domestic violence

325 shall:

326           (a) use all reasonable means to protect the victim and prevent further violence,

327 including:

328           ~~(a)~~ (i) taking the action that, in the officer's discretion, is reasonably necessary to  
329 provide for the safety of the victim and any family or household member;

330           ~~(b)~~ (ii) confiscating the weapon or weapons involved in the alleged domestic  
331 violence;

332           ~~(c)~~ (iii) making arrangements for the victim and any child to obtain emergency  
333 housing or shelter;

334           ~~(d)~~ (iv) providing protection while the victim removes essential personal effects;

335           ~~(e)~~ (v) arrange, facilitate, or provide for the victim and any child to obtain medical  
336 treatment; and

337           ~~(f)~~ (vi) arrange, facilitate, or provide the victim with immediate and adequate notice  
338 of the rights of victims and of the remedies and services available to victims of domestic  
339 violence, in accordance with Subsection ~~(2)~~ (3); and

340           (b) if the allegation of domestic violence is against an intimate partner, complete the  
341 lethality assessment protocols described in this section.

342           ~~(2)~~ (3) (a) A law enforcement officer shall give written notice to the victim in simple  
343 language, describing the rights and remedies available under this chapter, Title 78B, Chapter 7,  
344 Part 6, Cohabitant Abuse Protective Orders, and Title 78B, Chapter 7, Part 2, Child Protective  
345 Orders.

346           (b) The written notice shall also include:

347           (i) a statement that the forms needed in order to obtain an order for protection are  
348 available from the court clerk's office in the judicial district where the victim resides or is  
349 temporarily domiciled;

350           (ii) a list of shelters, services, and resources available in the appropriate community,  
351 together with telephone numbers, to assist the victim in accessing any needed assistance; and

352 (iii) the information required to be provided to both parties in accordance with  
353 Subsections [78B-7-802](#)(8) and (9) .

354 ~~[(3)]~~ (4) If a weapon is confiscated under this section, the law enforcement agency  
355 shall return the weapon to the individual from whom the weapon is confiscated if a domestic  
356 violence protective order is not issued or once the domestic violence protective order is  
357 terminated.

358 (5) A law enforcement officer shall complete a lethality assessment form by asking the  
359 victim:

360 (a) if the aggressor has ever used a weapon against the victim or threatened the victim  
361 with a weapon;

362 (b) if the aggressor has ever threatened to kill the victim or the victim's children;

363 (c) if the victim believes the aggressor will try to kill the victim;

364 (d) if the aggressor has ever tried to choke the victim;

365 (e) if the aggressor has a gun or could easily get a gun;

366 (f) if the aggressor is violently or constantly jealous, or controls most of the daily  
367 activities of the victim;

368 (g) if the victim left or separated from the aggressor after they were living together or  
369 married;

370 (h) if the aggressor is unemployed;

371 (i) if the aggressor has ever attempted suicide, to the best of the victim's knowledge;

372 (j) if the victim has a child that the aggressor believes is not the aggressor's biological  
373 child;

374 (k) if the aggressor follows or spies on the victim, or leaves threatening messages for  
375 the victim; and

376 (l) if there is anything else that worries the victim about the victim's safety and, if so,  
377 what worries the victim.

378 (6) A law enforcement officer shall comply with Subsection (7) if:

379 (a) the victim answers affirmatively to any of the questions in Subsections (5)(a)  
380 through (d);

381 (b) the victim answers negatively to the questions in Subsections (5)(a) through (d), but  
382 affirmatively to at least four of the questions in Subsections (5)(e) through (k); or

383 (c) as a result of the victim's response to the question in Subsection (5)(l), the law  
384 enforcement officer believes the victim is in a potentially lethal situation.

385 (7) If the criteria in Subsections (6)(a), (b), or (c) are met, the law enforcement officer  
386 shall:

387 (a) advise the victim of the results of the assessment; and

388 (b) refer the victim to a nongovernment organization victim advocate at a primary  
389 purpose domestic violence organization.

390 (8) If a victim does not or is unable to provide information to a law enforcement officer  
391 sufficient to allow the law enforcement officer to complete a lethality assessment form, or does  
392 not speak or is unable to speak with a nongovernment organization victim advocate, the law  
393 enforcement officer shall document this information on the lethality assessment form and  
394 submit the information to the Department of Public Safety under Subsection (9).

395 (9) (a) Except as provided in Subsection (9)(b), a law enforcement officer shall submit  
396 the results of a lethality assessment to the Department of Public Safety while on scene.

397 (b) If a law enforcement officer is not reasonably able to submit the results of a  
398 lethality assessment while on scene, the law enforcement officer shall submit the results of the  
399 lethality assessment to the Department of Public Safety as soon as practicable.

400 (c) (i) Before the reporting mechanism described in Subsection (10)(a) is developed, a  
401 law enforcement officer shall submit the results of a lethality assessment to the Department of  
402 Public Safety using means prescribed by the Department of Public Safety.

403 (ii) After the reporting mechanism described in Subsection (10)(a) is developed, a law  
404 enforcement officer shall submit the results of a lethality assessment to the Department of  
405 Public Safety using that reporting mechanism.

406           (10) The Department of Public Safety shall:  
407           (a) as soon as practicable, develop and maintain a reporting mechanism by which a law  
408 enforcement officer will submit the results of a lethality assessment as required by Subsection  
409 (9);  
410           (b) provide prompt analytical support to a law enforcement officer who submits the  
411 results of a lethality assessment using the reporting mechanism described in Subsection (10)(a);  
412 and  
413           (c) create and maintain a database of lethality assessment data provided under this  
414 section.  
415           (11) (a) Subject to Subsection (11)(b), a law enforcement officer shall include the  
416 results of a lethality assessment and any related, relevant analysis provided by the Department  
417 of Public Safety under Subsection (10), with:  
418           (i) a probable cause statement submitted in accordance with Rule 9 of the Utah Rules  
419 of Criminal Procedure; and  
420           (ii) an incident report prepared in accordance with Section [77-36-2.2](#).  
421           (b) In a probable cause statement or incident report, a law enforcement officer may not  
422 include information about how or where a victim was referred under Subsection (7)(b).  
423           Section 5. Section [77-36-2.2](#) is amended to read:  
424           **77-36-2.2. Powers and duties of law enforcement officers to arrest -- Reports of**  
425 **domestic violence cases -- Reports of parties' marital status.**  
426           (1) The primary duty of law enforcement officers responding to a domestic violence  
427 call is to protect the victim and enforce the law.  
428           (2) (a) In addition to the arrest powers described in Section [77-7-2](#), when a peace  
429 officer responds to a domestic violence call and has probable cause to believe that an act of  
430 domestic violence has been committed, the peace officer shall arrest without a warrant or shall  
431 issue a citation to any person that the peace officer has probable cause to believe has committed  
432 an act of domestic violence.



433 (b) (i) If the peace officer has probable cause to believe that there will be continued  
434 violence against the alleged victim, or if there is evidence that the perpetrator has either  
435 recently caused serious bodily injury or used a dangerous weapon in the domestic violence  
436 offense, the officer shall arrest and take the alleged perpetrator into custody, and may not  
437 utilize the option of issuing a citation under this section.

438 (ii) For purposes of Subsection (2)(b)(i), "serious bodily injury" and "dangerous  
439 weapon" mean the same as those terms are defined in Section [76-1-101.5](#).

440 (c) If a peace officer does not immediately exercise arrest powers or initiate criminal  
441 proceedings by citation or otherwise, the officer shall notify the victim of the right to initiate a  
442 criminal proceeding and of the importance of preserving evidence, in accordance with the  
443 requirements of Section [77-36-2.1](#).

444 (3) If a law enforcement officer receives complaints of domestic violence from two or  
445 more opposing persons, the officer shall evaluate each complaint separately to determine who  
446 the predominant aggressor was. If the officer determines that one person was the predominant  
447 physical aggressor, the officer need not arrest the other person alleged to have committed  
448 domestic violence. In determining who the predominant aggressor was, the officer shall  
449 consider:

- 450 (a) any prior complaints of domestic violence;
- 451 (b) the relative severity of injuries inflicted on each person;
- 452 (c) the likelihood of future injury to each of the parties; and
- 453 (d) whether one of the parties acted in self defense.

454 (4) A law enforcement officer may not threaten, suggest, or otherwise indicate the  
455 possible arrest of all parties in order to discourage any party's request for intervention by law  
456 enforcement.

457 (5) (a) A law enforcement officer who does not make an arrest after investigating a  
458 complaint of domestic violence, or who arrests two or more parties, shall submit a detailed,  
459 written report specifying the grounds for not arresting any party or for arresting both parties.

460 (b) A law enforcement officer who does not make an arrest shall notify the victim of  
461 the right to initiate a criminal proceeding and of the importance of preserving evidence.

462 (6) (a) A law enforcement officer responding to a complaint of domestic violence shall  
463 prepare an incident report that includes:

464 (i) the officer's disposition of the case[-]; and

465 (ii) the results of any lethality assessment completed in accordance with Section  
466 [77-36-2.1](#).

467 (b) From January 1, 2009, until December 31, 2013, any law enforcement officer  
468 employed by a city of the first or second class responding to a complaint of domestic violence  
469 shall also report, either as a part of an incident report or on a separate form, the following  
470 information:

471 (i) marital status of each of the parties involved;

472 (ii) social, familial, or legal relationship of the suspect to the victim; and

473 (iii) whether or not an arrest was made.

474 (c) The information obtained in Subsection (6)(b):

475 (i) shall be reported monthly to the department;

476 (ii) shall be reported as numerical data that contains no personal identifiers; and

477 (iii) is a public record as defined in Section [63G-2-103](#).

478 (d) The incident report shall be made available to the victim, upon request, at no cost.

479 (e) The law enforcement agency shall forward a copy of the incident report to the  
480 appropriate prosecuting attorney within five days after the complaint of domestic violence  
481 occurred.

482 (7) The department shall compile the information described in Subsections (6)(b) and  
483 (c) into a report and present that report to the Law Enforcement and Criminal Justice Interim  
484 Committee during the 2013 interim, no later than May 31, 2013.

485 (8) Each law enforcement agency shall, as soon as practicable, make a written record  
486 and maintain records of all incidents of domestic violence reported to it, and shall be identified

487 by a law enforcement agency code for domestic violence.

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

489 **78B-7-120. Law enforcement -- Training -- Domestic violence -- Lethality**  
490 **assessments.**

491 (1) [~~The~~] In accordance with Section [77-36-2.1](#), the Department of Public Safety shall  
492 develop training in domestic violence responses and lethality assessment protocols, which  
493 include the following:

494 (a) recognizing the symptoms of domestic violence and trauma;

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

497 (c) lethality assessment protocols and interviewing techniques, including indicators of  
498 strangulation;

499 (d) responding to the needs and concerns of a victim of domestic violence;

500 (e) delivering services to victims of domestic violence in a compassionate, sensitive,  
501 and professional manner; and

502 (f) understanding cultural perceptions and common myths of domestic violence.

503 (2) The department shall develop and offer an online training course in domestic  
504 violence issues to all certified law enforcement officers in the state.

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

508 (4) The department shall develop specific training curriculums that meet the  
509 requirements of this section, including:

510 (a) response to domestic violence incidents, including trauma-informed and  
511 victim-centered interview techniques;

512 (b) lethality assessment protocols which have been demonstrated to minimize  
513 retraumatizing victims; and

514 (c) standards for report writing.

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

518 (a) lethality assessments;

519 (b) the prevalence of stalking;

520 (c) strangulation;

521 (d) violence in the presence of children; and

522 (e) threats of suicide or homicide.

523 (6) The Department of Public Safety, with support from the Commission on Criminal  
524 and Juvenile Justice and the Division of Child and Family Services shall provide  
525 recommendations to the Law Enforcement and Criminal Justice Interim Committee not later  
526 than July 31 of each year and in the commission's annual report required by Section  
527 [63M-7-205](#).

528 (7) The Department of Public Safety and the Administrative Office of the Courts shall  
529 coordinate to provide information and training on the lethality assessment protocols described  
530 in Section [77-36-2.1](#) to all judges, commissioners, and court staff who may encounter lethality  
531 assessment data in the courses of their duties.

532 Section 7. Section **78B-7-803** is amended to read:

533 **78B-7-803. Pretrial protective orders.**

534 (1) (a) When an alleged perpetrator is charged with a crime involving a qualifying  
535 offense, the court shall, at the time of the alleged perpetrator's court appearance under Section  
536 [77-36-2.6](#):

537 (i) determine the necessity of imposing a pretrial protective order or other condition of  
538 pretrial release; and

539 (ii) state the court's findings and determination in writing.

540 (b) Except as provided in Subsection (4), in any criminal case, the court may, during

541 any court hearing where the alleged perpetrator is present, issue a pretrial protective order,  
542 pending trial.

543 (c) When determining the necessity of imposing a pretrial protective order or other  
544 condition of pretrial release, a court may consider the results of any relevant lethality  
545 assessment conducted in accordance with Section [77-36-2.1](#).

546 (2) A court may include any of the following provisions in a pretrial protective order:

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

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

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

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

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

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

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

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

567 (3) If the court issues a pretrial protective order, the court shall determine whether to

568 allow provisions for transfer of personal property to decrease the need for contact between the  
569 parties.

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

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

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

576 Section 8. **Appropriation.**

577 The following sums of money are appropriated for the fiscal year beginning July 1,  
578 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for  
579 fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures  
580 Act, the Legislature appropriates the following sums of money from the funds or accounts  
581 indicated for the use and support of the government of the state of Utah.

582 ITEM 1

583 To Department of Public Safety -- Programs and Operations

584 From General Fund, One-time 100,000

585 Schedule of Programs:

586 Department Intelligence Center 100,000

587 The Legislature intends that the Department of Public Safety use appropriations under  
588 this item to develop, administer, and maintain a lethality assessment reporting mechanism and  
589 database.

590 ITEM 2

591 To Department of Public Safety -- Programs and Operations

592 From General Fund 1,205,000

593 Schedule of Programs:

594 Department Intelligence Center 1,205,000

595           The Legislature intends that:  
596           (1) the Department of Public Safety use appropriations under this item to develop,  
597 administer, and maintain lethality assessment tools and services; and  
598           (2) under Section [63J-1-603](#), the appropriation under this item not lapse at the close of  
599 fiscal year 2024 and the use of any nonlapsing funds is limited to the purposes described in  
600 Subsection (1) of this item.