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VICTIM AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

House Sponsor: Sahara Hayes

LONG TITLE

General Description:

This bill amends provisions related to victims.

Highlighted Provisions:

This bill:

- ▶ amends a chapter title;
- ▶ amends provisions related to the address confidentiality program for victims; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-37-5, as last amended by Laws of Utah 2022, Chapter 430

77-38-605, as enacted by Laws of Utah 2022, Chapter 215

77-38-607, as enacted by Laws of Utah 2022, Chapter 215

77-38-608, as enacted by Laws of Utah 2022, Chapter 215

77-38-609, as enacted by Laws of Utah 2022, Chapter 215

77-38-611, as enacted by Laws of Utah 2022, Chapter 215

77-38-612, as enacted by Laws of Utah 2022, Chapter 215



28 **77-38-615**, as enacted by Laws of Utah 2022, Chapter 215

29 **77-38-618**, as enacted by Laws of Utah 2022, Chapter 215

30 **77-38-619**, as enacted by Laws of Utah 2022, Chapter 215

31 **78B-7-804**, as last amended by Laws of Utah 2021, Chapters 159, 260 and last

32 amended by Coordination Clause, Laws of Utah 2021, Chapter 159

33 **80-6-604**, as enacted by Laws of Utah 2021, Chapter 261

34 REPEALS:

35 **77-38-1**, as enacted by Laws of Utah 1994, Chapter 198



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

38 Section 1. Section **77-37-5** is amended to read:

39 **77-37-5. Remedies -- District Victims' Rights Committee.**

40 (1) In each judicial district, the Utah Council on Victims of Crime, established in
41 Section **63M-7-601**, shall appoint a person who shall chair a judicial district victims' rights
42 committee consisting of:

- 43 (a) a county attorney or district attorney;
- 44 (b) a sheriff;
- 45 (c) a corrections field services administrator;
- 46 (d) an appointed victim advocate;
- 47 (e) a municipal attorney;
- 48 (f) a municipal chief of police; and
- 49 (g) other representatives as appropriate.

50 (2) The committee shall meet at least semiannually to review progress and problems
51 related to this chapter, [~~Title 77, Chapter 38, Rights of Crime Victims Act~~] Title 77, Chapter
52 38, Crime Victims, Title 77, Chapter 38b, Crime Victims Restitution Act, and Utah
53 Constitution Article I, Section 28. Victims and other interested parties may submit matters of
54 concern to the victims' rights committee. The committee may hold a hearing open to the public
55 on any appropriate matter of concern and may publish its findings. These matters shall also be
56 considered at the meetings of the victims' rights committee. The committee shall forward
57 minutes of all meetings to the Utah Council on Victims of Crime for review and other
58 appropriate action.

59 (3) If a victims' rights committee is unable to resolve a complaint, it may refer the
60 complaint to the Utah Council on Victims of Crime.

61 (4) The Utah Office for Victims of Crime shall provide materials to local law
62 enforcement to inform every victim of a sexual offense of the right to request testing of the
63 convicted sexual offender and of the victim as provided in Section 53-10-802.

64 (5) (a) If a person acting under color of state law willfully or wantonly fails to perform
65 duties so that the rights in this chapter are not provided, an action for injunctive relief may be
66 brought against the individual and the government entity that employs the individual.

67 (b) For all other violations, if the committee finds a violation of a victim's right, it shall
68 refer the matter to the appropriate court for further proceedings consistent with Subsection
69 77-38-11(2).

70 (c) The failure to provide the rights in this chapter or [~~Title 77, Chapter 38, Rights of~~
71 ~~Crime Victims Act~~] Title 77, Chapter 38, Crime Victims, does not constitute cause for a
72 judgment against the state or any government entity, or any individual employed by the state or
73 any government entity, for monetary damages, attorney fees, or the costs of exercising any
74 rights under this chapter.

75 (6) The person accused of and subject to prosecution for the crime or the act which
76 would be a crime if committed by a competent adult, has no standing to make a claim
77 concerning any violation of the provisions of this chapter.

78 Section 2. Section 77-38-605 is amended to read:

79 **CHAPTER 38. CRIME VICTIMS**

80 **77-38-605. Administration -- Application.**

81 (1) The commission shall provide an application form to an applicant who seeks to
82 participate in the program under this [~~chapter~~] part.

83 (2) The commission may not charge an applicant or program participant for an
84 application or participation fee to apply for, or participate in, the program.

85 (3) The application shall include:

86 (a) the applicant's name;

87 (b) a mailing address, a phone number, and an email address where the applicant may
88 be contacted by the commission;

89 (c) an indication regarding whether the assailant is employed by a state or local

- 90 government entity, and if applicable, the name of the state or local government entity;
- 91 (d) a statement that the applicant understands and consents to:
- 92 (i) remain enrolled in the program for four years, unless the applicant's participation in
- 93 the program is cancelled under Section [77-38-617](#);
- 94 (ii) while the applicant is enrolled in the program, notify the commission when the
- 95 applicant changes the applicant's actual address or legal name;
- 96 (iii) develop a safety plan with a program assistant;
- 97 (iv) authorize the commission to notify a state or local government entity that the
- 98 applicant is a program participant;
- 99 (v) submit written notice to the commission if the applicant chooses to cancel the
- 100 applicant's participation in the program;
- 101 (vi) register to vote in person at the office of the clerk in the county where the
- 102 applicant's actual address is located; and
- 103 (vii) certify that the commission is the applicant's designated agent for service of
- 104 process for personal service;
- 105 (e) evidence that the applicant, or a minor or an incapacitated individual residing with
- 106 the applicant, is a victim, including:
- 107 (i) a law enforcement, court, or other state, local, or federal government agency record;
- 108 or
- 109 (ii) a document from:
- 110 (A) a domestic violence program, facility, or shelter;
- 111 (B) a sexual assault program; or
- 112 (C) a religious, medical, or other professional from whom the applicant, or the minor
- 113 or the incapacitated individual residing with the applicant, sought assistance in dealing with
- 114 alleged abuse, domestic violence, stalking, or a sexual offense;
- 115 (f) a statement from the applicant that a disclosure of the applicant's actual address
- 116 would endanger the applicant, or a minor or an incapacitated individual residing with the
- 117 applicant;
- 118 (g) a statement by the applicant that the applicant:
- 119 (i) resides at a residential address that is not known by the assailant;
- 120 (ii) has relocated to a different residential address in the past 90 days that is not known

121 by the assailant; or
122 (iii) will relocate to a different residential address in the state within 90 days that is not
123 known by the assailant;
124 (h) the actual address that:
125 (i) the applicant requests that the commission not disclose; and
126 (ii) is at risk of discovery by the assailant or potential assailant;
127 (i) a statement by the applicant disclosing:
128 (i) the existence of a court order or action involving the applicant, or a minor or an
129 incapacitated individual residing with the applicant, related to a divorce proceeding, a child
130 support order or judgment, or the allocation of custody or parent-time; and
131 (ii) the court that issued the order or has jurisdiction over the action;
132 (j) the name of any other individual who resides with the applicant who needs to be a
133 program participant to ensure the safety of the applicant, or a minor or an incapacitated
134 individual residing with the applicant;
135 (k) a statement by the applicant that:
136 (i) the applicant, or a minor or an incapacitated individual residing at the same address
137 as the applicant, will benefit from participation in the program;
138 (ii) if the applicant intends to vote, the applicant will register to vote at the office of the
139 clerk in the county in which the applicant actually resides;
140 (iii) the applicant does not have a current obligation to register as a sex offender or a
141 kidnap offender under Title 77, Chapter 41, Sex and Kidnap Offender Registry; and
142 (iv) the applicant does not have a current obligation to register as a child abuse
143 offender under Title 77, Chapter 43, Child Abuse Offender Registry;
144 (l) a statement by the applicant, under penalty of perjury, that the information
145 contained in the application is true;
146 (m) a statement that:
147 (i) if the applicant intends to use the assigned address for any correspondence with the
148 State Tax Commission, the applicant must provide the State Tax Commission with the
149 applicant's social security number, federal employee identification number, and any other
150 identification number related to a tax, fee, charge, or license administered by the State Tax
151 Commission; and

152 (ii) if the applicant intends to use the assigned address for correspondence to a state or
153 local government entity for the purpose of titling or registering a motor vehicle or a watercraft
154 that is owned or leased by the applicant, the applicant shall provide to the state or local
155 government entity for each motor vehicle or watercraft:

- 156 (A) the motor vehicle or hull identification number;
- 157 (B) the license plate or registration number for the motor vehicle or the watercraft; and
- 158 (C) the physical address where each motor vehicle or watercraft is stored; and
- 159 (n) a statement that any assistance or counseling provided by a program assistant as
160 part of the program does not constitute legal advice or legal services to the applicant.

161 Section 3. Section 77-38-607 is amended to read:

162 **77-38-607. Use of assigned address -- Release of information.**

163 (1) The commission shall forward all mail that the office receives at the assigned
164 address for a program participant to the program participant's actual address.

165 (2) The commission shall provide, at the request of a program participant or a state or
166 local government entity, confirmation of an individual's status as a program participant.

167 (3) Except as provided in Sections 77-38-611, 77-38-612, and 77-38-613, the [office]
168 commission may not disclose a program participant's actual address to any person.

169 Section 4. Section 77-38-608 is amended to read:

170 **77-38-608. Use of assigned address -- Confidentiality.**

171 (1) A program participant may use the assigned address provided to the program
172 participant to receive mail as provided in Subsection 77-38-602(2).

173 (2) (a) A state or local government entity may not refuse to use a program participant's
174 assigned address for any official business, unless:

175 (i) the state or local government entity is statutorily required to use the program
176 participant's actual address; or

177 (ii) the state or local government entity is permitted or required to use the program
178 participant's actual address under this part.

179 (b) A state or local government entity may confirm an individual's status as a program
180 participant with the commission.

181 (3) A state or local government entity, after receiving a copy of the notification form
182 from a program participant or a notification of the program participant's enrollment from the

183 commission, may not:

184 (a) except as provided in Subsection (2)(a), refuse to use the assigned address for the
185 program participant, or a minor or an incapacitated individual residing with the program
186 participant;

187 (b) except as provided in Subsection (4), require a program participant to disclose the
188 program participant's actual address; or

189 (c) except as provided in Section 77-38-611, intentionally disclose to another person or
190 state or local government entity the program participant's actual address.

191 (4) Notwithstanding Subsections (2) and (3), a county clerk may require a program
192 participant to disclose the program participant's actual address:

193 (a) for voter registration; and

194 (b) to enroll a program participant in a program designed to protect the confidentiality
195 of a voter's address.

196 (5) If a program participant is enrolled in a program designed to protect the
197 confidentiality of a voter's address, a county clerk:

198 (a) shall classify the program participant's actual address as concealed; and

199 (b) may not disclose the program participant's actual address.

200 Section 5. Section 77-38-609 is amended to read:

201 **77-38-609. Disclosure of actual address prohibited.**

202 (1) (a) The commission may not disclose a program participant's actual address, unless:

203 (i) required by a court order; or

204 (ii) the commission grants a request from a state or local government entity under
205 Section 77-38-612.

206 (b) The commission shall provide a program participant immediate notification of a
207 disclosure of the program participant's actual address if the disclosure is made under
208 Subsection (1)(a)(i) or (ii).

209 (2) If, at the time of application, an applicant, or a parent or guardian of an applicant, is
210 subject to a court order relating to a divorce proceeding, a child support order or judgment, or
211 an allocation of custody or parent-time, the commission shall provide notice of whether the
212 applicant is enrolled under the program and the assigned address of the applicant to the court
213 that issued the order or has jurisdiction over the action.

214 (3) A person may not knowingly or intentionally obtain a program participant's actual
215 address from the commission or any state or local government entity if the person is not
216 authorized to obtain the program participant's actual address.

217 (4) Unless the disclosure is permitted under this [chapter] part or is otherwise
218 permitted by law, an employee of the commission or a state or local government entity may not
219 knowingly or intentionally disclose a program participant's actual address if:

220 (a) the employee obtains a program participant's actual address during the course of the
221 employee's official duties; and

222 (b) at the time of disclosure, the employee has specific knowledge that the address is
223 the actual address of the program participant.

224 (5) A person who intentionally or knowingly obtains or discloses information in
225 violation of this [chapter] part is guilty of a class B misdemeanor.

226 Section 6. Section **77-38-611** is amended to read:

227 **77-38-611. Address use by state or local government entities.**

228 (1) Except as otherwise provided in Subsection (7), a program participant is
229 responsible for requesting that a state or local government entity use the program participant's
230 assigned address as the program participant's residential address.

231 (2) Except as otherwise provided in this [chapter] part, if a program participant submits
232 a valid authorization card, or a notification form, to a state or local government entity, the state
233 or local government entity shall accept the assigned address listed on the authorization card or
234 notification form as the program participant's address to be used as the program participant's
235 residential address when creating a record.

236 (3) The program participant's assigned address shall be listed as the last known address
237 if any last known address requirement is needed by the state or local government entity.

238 (4) The state or local government entity may photocopy a program participant's
239 authorization card for a record for the state or local government entity, but the state or local
240 government entity shall immediately return the authorization card to the program participant.

241 (5) (a) An election official, as defined in Section [20A-1-102](#), shall:

242 (i) use a program participant's actual address for precinct designation and all official
243 election-related purposes;

244 (ii) classify the program participant's actual address as concealed; and

245 (iii) keep the program participant's actual address confidential from the public.

246 (b) A program participant may not use the program participant's assigned address for
247 voter registration.

248 (c) An election official shall use the assigned address for all correspondence and mail
249 for the program participant placed in the United States mail.

250 (d) A state or local government entity's access to a program participant's voter
251 registration is subject to the request for disclosure process under Section 77-38-612.

252 (e) This Subsection (5) applies only to a program participant who submits a valid
253 authorization card or a notification form when registering to vote.

254 (6) (a) A state or local government entity may not use a program participant's assigned
255 address for the purposes of listing, or appraising a property, or assessing property taxes.

256 (b) Except as provided by Subsection (6)(c), all property assessments and tax notices,
257 property tax collection notices, and all property related correspondence placed in the United
258 States mail for the program participant shall be addressed to the assigned address.

259 (c) The State Tax Commission shall use the actual address of a program participant,
260 unless the commission provides the following information to the State Tax Commission:

261 (i) the full name of the program participant; and

262 (ii) the ~~[applicant's]~~ program participant's social security number, federal employee
263 identification number, and any other identification number related to a tax, fee, charge, or
264 license administered by the State Tax Commission.

265 (7) (a) A state or local government entity may not use a program participant's assigned
266 address for purposes of assessing any taxes or fees on a motor vehicle or a watercraft for titling
267 or registering a motor vehicle or a watercraft.

268 (b) Except as provided by Subsection (7)(c), all motor vehicle and watercraft
269 assessments and tax notices, title registration notices, and all related correspondence placed in
270 the United States mail for the program participant is required to be addressed to the assigned
271 address.

272 (c) The Motor Vehicle Division shall use the actual address of a program participant,
273 unless the commission provides the following information to the Motor Vehicle Division:

274 (i) the full name of the program participant;

275 (ii) the assigned address of the program participant;

276 (iii) the motor vehicle or hull identification number for each motor vehicle or
277 watercraft that is owned or leased by the program participant;

278 (iv) the license plate or registration number for each motor vehicle or watercraft that is
279 owned or leased by the program participant; and

280 (v) the physical address where each motor vehicle or watercraft that is owned or leased
281 by the program participant.

282 (d) Notwithstanding any other provision of this part, the Motor Vehicle Division may
283 disclose to another state or local government entity all information that is necessary for the
284 state or local government entity to distribute any taxes or fees collected for titling or registering
285 a motor vehicle or a watercraft.

286 (e) Notwithstanding Section 41-1a-116 or any other provision of this part, the Motor
287 Vehicle Division may not disclose the actual address of a program participant described in
288 Subsection 77-38-605(3)(m)(ii) to:

289 (i) the Utah Criminal Justice Information System; or

290 (ii) the title, lien, and registration system that is provided to the Motor Vehicle
291 Division by a third party contractor and is accessed in accordance with Subsection
292 41-1a-116(4).

293 (8) (a) The Department of Corrections, or any other entity responsible for supervising a
294 program participant who is on probation or parole as a result of a criminal conviction or an
295 adjudication, may not use the program participant's assigned address if the program
296 participant's actual address is necessary for supervising the program participant.

297 (b) All written communication delivered through the United States mail to the program
298 participant by the Department of Corrections, or the other entity described in Subsection (8)(a),
299 shall be addressed to the program participant's assigned address.

300 (9) If a program participant is required by law to swear or affirm to the program
301 participant's address, the program participant may use the program participant's assigned
302 address.

303 (10) (a) A school district shall:

304 (i) accept the assigned address as the address of record; and

305 (ii) verify student enrollment eligibility with the commission.

306 (b) The commission shall help facilitate the transfer of student records as needed.

307 (11) (a) Notwithstanding Title 63G, Chapter 2, Government Records Access and
308 Management Act, a record containing a program participant's address is confidential and,
309 regardless of the record's classification under Title 63G, Chapter 2, Part 3, Classification, may
310 not be disclosed by a state or local government entity, unless otherwise provided under this
311 [chapter] part.

312 (b) A program participant's actual address may not be disclosed to a third party by a
313 state or local government entity, except:

314 (i) in a record created more than 90 days before the date on which the program
315 participant applied for enrollment in the program; or

316 (ii) if a program participant voluntarily requests, in writing, that the program
317 participant's actual address be disclosed to the third party.

318 (c) For a record created within 90 days before the date that a program participant
319 applied for enrollment in the program, a state or local government entity shall redact the actual
320 address from the record or change the actual address to the assigned address in the public
321 record if the program participant presents a valid authorization card or a notification form and
322 requests that the state or local government entity use the assigned address instead of the actual
323 address on the record.

324 Section 7. Section **77-38-612** is amended to read:

325 **77-38-612. Request for disclosure.**

326 (1) A state or local government entity requesting disclosure of a program participant's
327 actual address in accordance with this section shall make the request:

328 (a) in writing;

329 (b) on the state or local government entity's letterhead; and

330 (c) with the signature of the head or an executive-level official of the state or local
331 government entity.

332 (2) In accordance with Subsection (1), a state or local government entity requesting
333 disclosure of a program participant's actual address shall provide the commission with the
334 name of the program participant and a statement:

335 (a) explaining why the state or local government entity is requesting the program
336 participant's actual address;

337 (b) explaining why the state or local government entity cannot meet the state or local

338 government entity's statutory or administrative obligations without the disclosure of the
339 program participant's actual address;

340 (c) of facts showing that:

341 (i) other methods to locate the program participant's actual address have failed;

342 (ii) other methods will be unlikely to succeed; or

343 (iii) other means of contacting the program participant have failed or are unavailable;

344 and

345 (d) that the state or local government entity has adopted a procedure to protect the
346 confidentiality of the program participant's actual address.

347 (3) In response to a request for disclosure under Subsection (2), the commission may
348 request additional information from the state or local government entity to help identify the
349 program participant in the records of the office or to assess whether disclosure to the state or
350 local government entity is permitted under this ~~chapter~~ part.

351 (4) (a) Except as provided in Subsection (4)(b), after receiving a request for disclosure
352 from a state or local government entity under Subsection (1), the commission shall provide a
353 program participant with written notification:

354 (i) informing the participant of the request, and to the extent possible, of an opportunity
355 to be heard regarding the request; and

356 (ii) after a decision is made by the commission, whether the request has been granted
357 or denied.

358 (b) The commission is not required to provide notice of a request for disclosure to a
359 program participant under Subsection (4)(a) when:

360 (i) the request is made by a state or local law enforcement agency conducting a
361 criminal investigation involving alleged criminal conduct by the program participant; or

362 (ii) providing notice to the program participant would jeopardize an ongoing criminal
363 investigation or the safety of law enforcement personnel.

364 (5) The commission shall grant a state or local government entity's request for
365 disclosure and disclose the program participant's actual address if:

366 (a) the state or local government entity has demonstrated a good faith statutory or
367 administrative need for the actual address;

368 (b) the actual address will be used only for the purpose stated in the request;

369 (c) other methods to locate the program participant or the program participant's actual
370 address have failed or are unlikely to succeed;

371 (d) other means of contacting the program participant have failed or are unavailable;
372 and

373 (e) the state or local government entity has adopted a procedure to protect the
374 confidentiality of the program participant's actual address.

375 (6) If the commission grants a request for disclosure under this section, the commission
376 shall provide the state or local government entity with a disclosure that contains:

377 (a) the program participant's actual address;

378 (b) a statement of the permitted use of the program participant's actual address;

379 (c) the names or classes of persons permitted to have access to or use of the program
380 participant's actual address;

381 (d) a statement that the state or local government entity is required to limit access to
382 and use of the program participant's actual address to the permitted use and to the listed persons
383 or classes of persons; and

384 (e) if expiration of the disclosure is appropriate, the date on which the permitted use of
385 the program participant's actual address expires.

386 (7) If a request for disclosure is granted by the commission, a state or local government
387 entity shall:

388 (a) limit use of the program participant's actual address to the purpose stated in the
389 disclosure;

390 (b) limit access to the program participant's actual address to the persons or classes of
391 persons stated in the disclosure;

392 (c) cease use of the program participant's actual address upon the expiration of the
393 permitted use;

394 (d) dispose of the program participant's actual address upon the expiration of the
395 permitted use; and

396 (e) except as permitted in the request for disclosure, maintain the confidentiality of the
397 program participant's actual address.

398 (8) Upon denial of a state or local government entity's request for disclosure, the
399 commission shall promptly provide a written notification to the state or local government entity

400 explaining the specific reasons for denying the request for disclosure.

401 (9) (a) A state or local government entity may file a written appeal with the
402 commission no later than 15 days after the day on which the state or local government entity
403 receives the written notification under Subsection (8).

404 (b) A state or local government entity filing a written appeal under Subsection (9)(a)
405 shall:

406 (i) restate the information contained in the request for disclosure; and

407 (ii) respond to the commission's reason for denying the request for disclosure.

408 (c) The commission shall make a final determination on the appeal within 30 days after
409 the day on which the appeal is received by the commission, unless the state or local
410 government entity and the [~~office~~] commission agree to a different deadline.

411 (d) Before the commission makes a final determination, the commission may conduct a
412 hearing or request additional information from the state or local government entity or the
413 program participant.

414 Section 8. Section **77-38-615** is amended to read:

415 **77-38-615. Participation in the program -- Orders in relation to allocation of**
416 **custody or parent-time.**

417 (1) A court may not consider a parent's participation in the program for the purpose of
418 making an order allocating custody under Section **30-3-10** or parent-time under Section
419 **30-3-32**.

420 (2) A court shall take practical measures to keep a program participant's actual address
421 confidential when making an order allocating custody or parent-time.

422 (3) Nothing in this [~~chapter~~] part affects an order relating to the allocation of custody
423 or parent-time in effect prior to or during a program participant's participation in the program.

424 Section 9. Section **77-38-618** is amended to read:

425 **77-38-618. Retention and destruction of records.**

426 The commission shall establish policies and procedures regarding the maintenance and
427 destruction of applications, records, and other documents received or generated under this
428 [~~chapter~~] part.

429 Section 10. Section **77-38-619** is amended to read:

430 **77-38-619. Immunity from suit.**

431 (1) A program assistant, or a program assistant's employer, is immune from liability in
432 a civil action or proceeding involving the performance or nonperformance of a duty under this
433 [chapter] part, unless:

434 (a) the performance or nonperformance of a program assistant was manifestly outside
435 the scope of the program assistant's duties in the program; or

436 (b) the program assistant acted with malicious purpose, bad faith, or in a wanton or
437 reckless manner.

438 (2) In addition to the governmental immunity granted in Title 63G, Chapter 7,
439 Governmental Immunity Act of Utah, or any other governmental immunity provided by law,
440 the commission, the state, and the political subdivisions of the state are immune from liability
441 in a civil action or proceeding involving the performance or nonperformance of a duty under
442 the program.

443 Section 11. Section **78B-7-804** is amended to read:

444 **78B-7-804. Sentencing and continuous protective orders for a domestic violence**
445 **offense -- Modification -- Expiration.**

446 (1) Before a perpetrator who has been convicted of or adjudicated for a domestic
447 violence offense may be placed on probation, the court shall consider the safety and protection
448 of the victim and any member of the victim's family or household.

449 (2) The court may condition probation or a plea in abeyance on the perpetrator's
450 compliance with a sentencing protective order that includes:

451 (a) an order enjoining the perpetrator from threatening to commit or committing acts of
452 domestic violence against the victim or other family or household member;

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

455 (c) an order requiring the perpetrator to stay away from the victim's residence, school,
456 place of employment, and the premises of any of these, or a specified place frequented
457 regularly by the victim or any designated family or household member;

458 (d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm
459 or other specified weapon;

460 (e) an order directing the perpetrator to surrender any weapons the perpetrator owns or
461 possesses; and

462 (f) an order imposing any other condition necessary to protect the victim and any other
463 designated family or household member or to rehabilitate the perpetrator.

464 (3) (a) Because of the serious, unique, and highly traumatic nature of domestic violence
465 crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of
466 continued acts of violence subsequent to the release of a perpetrator who is convicted of or
467 adjudicated for domestic violence, it is the finding of the Legislature that domestic violence
468 crimes warrant the issuance of continuous protective orders under this Subsection (3) because
469 of the need to provide ongoing protection for the victim and to be consistent with the purposes
470 of protecting victims' rights under Title 77, Chapter 37, Victims' Rights, and [~~Title 77, Chapter~~
471 ~~38, Rights of Crime Victims Act~~] Title 77, Chapter 38, Crime Victims, and Article I, Section
472 28 of the Utah Constitution.

473 (b) Except as provided in Subsection (6), if a perpetrator is convicted of a domestic
474 violence offense resulting in a sentence of imprisonment, including jail, that is to be served
475 after conviction, the court shall issue a continuous protective order at the time of the conviction
476 or sentencing limiting the contact between the perpetrator and the victim unless the court
477 determines by clear and convincing evidence that the victim does not have a reasonable fear
478 of future harm or abuse.

479 (c) (i) The court shall notify the perpetrator of the right to request a hearing.

480 (ii) If the perpetrator requests a hearing under this Subsection (3)(c), the court shall
481 hold the hearing at the time determined by the court. The continuous protective order shall be
482 in effect while the hearing is being scheduled and while the hearing is pending.

483 (d) A continuous protective order is permanent in accordance with this Subsection (3)
484 and may include:

485 (i) an order enjoining the perpetrator from threatening to commit or committing acts of
486 domestic violence against the victim or other family or household member;

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

489 (iii) an order prohibiting the perpetrator from going to the victim's residence, school,
490 place of employment, and the premises of any of these, or a specified place frequented
491 regularly by the victim or any designated family or other household member;

492 (iv) an order directing the perpetrator to pay restitution to the victim as may apply, and

493 shall be enforced in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act; and

494 (v) any other order the court considers necessary to fully protect the victim and
495 members of the victim's family or other household member.

496 (4) A continuous protective order may be modified or dismissed only if the court
497 determines by clear and convincing evidence that all requirements of Subsection (3) have been
498 met and the victim does not have a reasonable fear of future harm or abuse.

499 (5) Except as provided in Subsection (6), in addition to the process of issuing a
500 continuous protective order described in Subsection (3), a district court may issue a continuous
501 protective order at any time if the victim files a petition with the court, and after notice and
502 hearing the court finds that a continuous protective order is necessary to protect the victim.

503 (6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court
504 under Section 80-6-504, a continuous protective order may not be issued under this section
505 against a perpetrator who is a minor.

506 (b) Unless the court sets an earlier date for expiration, a sentencing protective order
507 issued under this section against a perpetrator who is a minor expires on the earlier of:

508 (i) the day on which the juvenile court terminates jurisdiction; or

509 (ii) in accordance with Section 80-6-807, the day on which the Division of Juvenile
510 Justice Services discharges the perpetrator.

511 Section 12. Section 80-6-604 is amended to read:

512 **80-6-604. Victim's rights -- Access to juvenile court records.**

513 (1) (a) If a minor is charged in a petition or information under this chapter for an
514 offense that if committed by an adult would be a felony or a class A or class B misdemeanor, a
515 victim of any act charged in the petition or information shall, upon request, be afforded all
516 rights afforded to victims in:

517 (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

518 (ii) Title 77, Chapter 37, Victims' Rights;

519 (iii) [~~Title 77, Chapter 38, Rights of Crime Victims Act~~] Title 77, Chapter 38, Crime
520 Victims; and

521 (iv) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

522 (b) The notice provisions in Section 77-38-3 do not apply to important juvenile justice
523 hearings as defined in Section 77-38-2.

524 (2) A victim, upon request to the appropriate juvenile court personnel, shall have the
525 right to inspect and duplicate juvenile court records related to the offense against the victim
526 that have not been expunged under Part 10, Juvenile Records and Expungement, concerning:

527 (a) the scheduling of any juvenile court hearings on a petition or information filed
528 under this chapter;

529 (b) any findings made by the juvenile court; and

530 (c) any order or disposition imposed by the juvenile court.

531 **Section 13. Repealer.**

532 This bill repeals:

533 Section **77-38-1**, Title.