

DOMESTIC VIOLENCE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill amends provisions relating to domestic violence.

Highlighted Provisions:

This bill:

- ▶ requires a law enforcement officer to conduct a lethality assessment when responding to a report of domestic violence between intimate partners;
- ▶ describes the protocol for a lethality assessment;
- ▶ requires a law enforcement officer who conducts a lethality assessment to:
 - include the results of the assessment with a probable cause statement and incident report; and
 - submit the results to the Department of Public Safety;
- ▶ requires the Department of Public Safety to:
 - develop and maintain a reporting mechanism by which law enforcement can submit lethality assessment data;
 - provide analytical support to a law enforcement officer who submits the results of a lethality assessment;
 - create and maintain a database of lethality assessment data; and
 - in coordination with the Administrative Office of the Courts, provide information and training to certain court personnel regarding lethality assessments;



- 28 ▶ includes a lethality assessment as part of the information that may be considered as
- 29 part of pretrial and presentencing processes; and
- 30 ▶ makes technical and conforming changes.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

- 37 **53-1-106**, as last amended by Laws of Utah 2021, Chapters 344, 360
- 38 **63I-1-263**, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236,
- 39 249, 274, 296, 313, 361, 362, 417, 419, and 472
- 40 **63M-7-303**, as last amended by Laws of Utah 2022, Chapter 211
- 41 **77-18-103**, as last amended by Laws of Utah 2022, Chapter 115
- 42 **77-20-202**, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4
- 43 **77-20-205**, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4
- 44 **77-36-2.1**, as last amended by Laws of Utah 2020, Chapter 142
- 45 **77-36-2.2**, as last amended by Laws of Utah 2022, Chapter 430
- 46 **78B-7-120**, as enacted by Laws of Utah 2021, Chapter 180
- 47 **78B-7-803**, as last amended by Laws of Utah 2021, Chapter 159



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

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

51 **53-1-106. Department duties -- Powers.**

52 (1) In addition to the responsibilities contained in this title, the department shall:

53 (a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic
54 Code, including:

55 (i) setting performance standards for towing companies to be used by the department,
56 as required by Section **41-6a-1406**; and

57 (ii) advising the Department of Transportation regarding the safe design and operation
58 of school buses, as required by Section **41-6a-1304**;

- 59 (b) make rules to establish and clarify standards pertaining to the curriculum and
- 60 teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;
- 61 (c) aid in enforcement efforts to combat drug trafficking;
- 62 (d) meet with the Division of Technology Services to formulate contracts, establish
- 63 priorities, and develop funding mechanisms for dispatch and telecommunications operations;
- 64 (e) provide assistance to the Crime Victim Reparations Board and the Utah Office for
- 65 Victims of Crime in conducting research or monitoring victims' programs, as required by
- 66 Section 63M-7-505;
- 67 (f) develop sexual assault exam protocol standards in conjunction with the Utah
- 68 Hospital Association;
- 69 (g) engage in emergency planning activities, including preparation of policy and
- 70 procedure and rulemaking necessary for implementation of the federal Emergency Planning
- 71 and Community Right to Know Act of 1986, as required by Section 53-2a-702;
- 72 (h) implement the provisions of Section 53-2a-402, the Emergency Management
- 73 Assistance Compact;
- 74 (i) ensure that any training or certification required of a public official or public
- 75 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter
- 76 22, State Training and Certification Requirements, if the training or certification is required:
- 77 (i) under this title;
- 78 (ii) by the department; or
- 79 (iii) by an agency or division within the department;
- 80 (j) employ a law enforcement officer as a public safety liaison to be housed at the State
- 81 Board of Education who shall work with the State Board of Education to:
- 82 (i) support training with relevant state agencies for school resource officers as
- 83 described in Section 53G-8-702;
- 84 (ii) coordinate the creation of model policies and memorandums of understanding for a
- 85 local education agency and a local law enforcement agency; and
- 86 (iii) ensure cooperation between relevant state agencies, a local education agency, and
- 87 a local law enforcement agency to foster compliance with disciplinary related statutory
- 88 provisions, including Sections 53E-3-516 and 53G-8-211; [and]
- 89 (k) provide for the security and protection of public officials, public officials' staff, and

90 the capitol hill complex in accordance with the provisions of this part[-]; and

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

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

95 (b) All fees not established in statute shall be established in accordance with Section
96 [63J-1-504](#).

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

99 Section 2. Section **63I-1-263** is amended to read:

100 **63I-1-263. Repeal dates: Titles 63A to 63N.**

101 (1) Subsection [63A-5b-405](#)(5), relating to prioritizing and allocating capital
102 improvement funding, is repealed July 1, 2024.

103 (2) Section [63A-5b-1003](#), State Facility Energy Efficiency Fund, is repealed July 1,
104 2023.

105 (3) Sections [63A-9-301](#) and [63A-9-302](#), related to the Motor Vehicle Review
106 Committee, are repealed July 1, 2023.

107 (4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

108 (a) Section [63A-18-102](#) is repealed;

109 (b) Section [63A-18-201](#) is repealed; and

110 (c) Section [63A-18-202](#) is repealed.

111 (5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
112 1, 2028.

113 (6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,
114 2025.

115 (7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,
116 2024.

117 (8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
118 repealed July 1, 2023.

119 (9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed
120 July 1, 2023.

- 121 (10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is
122 repealed July 1, 2026.
- 123 (11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.
- 124 (12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.
- 125 (13) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities
126 Advisory Board, is repealed July 1, 2026.
- 127 (14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
128 2028.
- 129 (15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
130 2024.
- 131 (16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.
- 132 (17) Subsection 63J-1-602.1(17), relating to the Nurse Home Visiting Restricted
133 Account, is repealed July 1, 2026.
- 134 (18) Subsection 63J-1-602.2(6), referring to dedicated credits to the Utah Marriage
135 Commission, is repealed July 1, 2023.
- 136 (19) Subsection 63J-1-602.2(7), referring to the Trip Reduction Program, is repealed
137 July 1, 2022.
- 138 (20) Subsection 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is
139 repealed January 1, 2025.
- 140 (21) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is
141 repealed July 1, 2027.
- 142 (22) In relation to the Utah Substance Use and Mental Health Advisory Council, on
143 January 1, 2033:
 - 144 (a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are
145 repealed;
 - 146 (b) Section 63M-7-305, the language that states "council" is replaced with
147 "commission";
 - 148 (c) Subsection 63M-7-305(1)(a) is repealed and replaced with:
149 "(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and
 - 150 (d) Subsection 63M-7-305(2) is repealed and replaced with:
151 "(2) The commission shall:

152 (a) provide ongoing oversight of the implementation, functions, and evaluation of the
153 Drug-Related Offenses Reform Act; and

154 (b) coordinate the implementation of Section [77-18-104](#) and related provisions in
155 Subsections [~~77-18-103(2)(c)~~] [77-18-103\(2\)\(d\)](#) and [~~(d)~~] [\(e\)](#)."

156 (23) The Crime Victim Reparations and Assistance Board, created in Section
157 [63M-7-504](#), is repealed July 1, 2027.

158 (24) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

159 (25) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed
160 January 1, 2025.

161 (26) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

162 (27) Section [63N-2-512](#), related to the Hotel Impact Mitigation Fund, is repealed July
163 1, 2028.

164 (28) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed
165 July 1, 2027.

166 (29) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is
167 repealed July 1, 2025.

168 (30) In relation to the Rural Employment Expansion Program, on July 1, 2023:

169 (a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed;
170 and

171 (b) Subsection [63N-4-805\(5\)\(b\)](#), referring to the Rural Employment Expansion
172 Program, is repealed.

173 (31) In relation to the Board of Tourism Development, on July 1, 2025:

174 (a) Subsection [63N-2-511\(1\)\(b\)](#), which defines "tourism board," is repealed;

175 (b) Subsections [63N-2-511\(3\)\(a\)](#) and (5), the language that states "tourism board" is
176 repealed and replaced with "Utah Office of Tourism";

177 (c) Subsection [63N-7-101\(1\)](#), which defines "board," is repealed;

178 (d) Subsection [63N-7-102\(3\)\(c\)](#), which requires the Utah Office of Tourism to receive
179 approval from the Board of Tourism Development, is repealed; and

180 (e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

181 (32) Subsection [63N-8-103\(3\)\(c\)](#), which allows the Governor's Office of Economic
182 Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed

183 on July 1, 2024.

184 Section 3. Section **63M-7-303** is amended to read:

185 **63M-7-303. Duties of council.**

186 (1) The Utah Substance Use and Mental Health Advisory Council shall:

187 (a) provide leadership and generate unity for Utah's ongoing efforts to reduce and
188 eliminate the impact of substance use and mental health disorders in Utah through a
189 comprehensive and evidence-based prevention, treatment, and justice strategy;

190 (b) recommend and coordinate the creation, dissemination, and implementation of
191 statewide policies to address substance use and mental health disorders;

192 (c) facilitate planning for a balanced continuum of substance use and mental health
193 disorder prevention, treatment, and justice services;

194 (d) promote collaboration and mutually beneficial public and private partnerships;

195 (e) coordinate recommendations made by any committee created under Section
196 [63M-7-302](#);

197 (f) analyze and provide an objective assessment of all proposed legislation concerning
198 substance use, mental health, and related issues;

199 (g) coordinate the implementation of Section [77-18-104](#) and related provisions in
200 Subsections [~~77-18-103(2)(c)~~] [77-18-103\(2\)\(d\)](#) and [~~(d)~~] [\(e\)](#), as provided in Section
201 [63M-7-305](#);

202 (h) comply with Sections [32B-2-306](#) and [62A-15-403](#); and

203 (i) oversee coordination for the funding, implementation, and evaluation of suicide
204 prevention efforts described in Section [62A-15-1101](#).

205 (2) The council shall meet quarterly or more frequently as determined necessary by the
206 chair.

207 (3) The council shall report the council's recommendations annually to the
208 commission, governor, the Legislature, and the Judicial Council.

209 Section 4. Section **77-18-103** is amended to read:

210 **77-18-103. Presentence investigation report -- Classification of presentence**
211 **investigation report -- Evidence or other information at sentencing.**

212 (1) Before the imposition of a sentence, the court may:

213 (a) upon agreement of the defendant, continue the date for the imposition of the

214 sentence for a reasonable period of time for the purpose of obtaining a presentence
215 investigation report from the department or a law enforcement agency, or information from any
216 other source about the defendant; and

217 (b) if the defendant is convicted of a felony or a class A misdemeanor, request that the
218 department or a law enforcement agency prepare a presentence investigation report for the
219 defendant.

220 (2) If a presentence investigation report is required under the standards established by
221 the department described in Section [77-18-109](#), the presentence investigation report under
222 Subsection (1) shall include:

223 (a) any impact statement provided by a victim as described in Subsection
224 [77-38b-203\(3\)\(c\)](#);

225 (b) any results of a lethality assessment completed in accordance with Section
226 [77-36-2.1](#);

227 ~~[(b)]~~ (c) information on restitution as described in Subsections [77-38b-203\(3\)\(a\)](#) and
228 (b);

229 ~~[(c)]~~ (d) findings from any screening and any assessment of the defendant conducted
230 under Section [77-18-104](#);

231 ~~[(d)]~~ (e) recommendations for treatment for the defendant; and

232 ~~[(e)]~~ (f) the number of days since the commission of the offense that the defendant has
233 spent in the custody of the jail and the number of days, if any, the defendant was released to a
234 supervised release program or an alternative incarceration program under Section [17-22-5.5](#).

235 (3) The department or law enforcement agency shall provide the presentence
236 investigation report to the defendant's attorney, or the defendant if the defendant is not
237 represented by counsel, the prosecuting attorney, and the court for review within three working
238 days before the day on which the defendant is sentenced.

239 (4) (a) (i) If there is an alleged inaccuracy in the presentence investigation report that is
240 not resolved by the parties and the department or law enforcement agency before sentencing:

241 (A) the alleged inaccuracy shall be brought to the attention of the court at sentencing;
242 and

243 (B) the court may grant an additional 10 working days after the day on which the
244 alleged inaccuracy is brought to the court's attention to allow the parties and the department to

245 resolve the alleged inaccuracy in the presentence investigation report.

246 (ii) If the court does not grant additional time under Subsection (4)(a)(i)(B), or the
247 alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is
248 an inaccuracy in the presentence investigation report, the court shall:

249 (A) enter a written finding as to the relevance and accuracy of the challenged portion of
250 the presentence investigation report; and

251 (B) provide the written finding to the Division of Adult Probation and Parole or the
252 law enforcement agency.

253 (b) The Division of Adult Probation and Parole shall attach the written finding to the
254 presentence investigation report as an addendum.

255 (c) If a party fails to challenge the accuracy of the presentence investigation report at
256 the time of sentencing, the matter shall be considered waived.

257 (5) The contents of the presentence investigation report are protected and not available
258 except by court order for purposes of sentencing as provided by rule of the Judicial Council or
259 for use by the department or law enforcement agency.

260 (6) (a) A presentence investigation report is classified as protected in accordance with
261 Title 63G, Chapter 2, Government Records Access and Management Act.

262 (b) Notwithstanding Sections [63G-2-403](#) and [63G-2-404](#), the State Records Committee
263 may not order the disclosure of a presentence investigation report.

264 (7) Except for disclosure at the time of sentencing in accordance with this section, the
265 department or law enforcement agency may disclose a presentence investigation only when:

266 (a) ordered by the court in accordance with Subsection [63G-2-202\(7\)](#);

267 (b) requested by a law enforcement agency or other agency approved by the department
268 for purposes of supervision, confinement, and treatment of a defendant;

269 (c) requested by the board;

270 (d) requested by the subject of the presentence investigation report or the subject's
271 authorized representative;

272 (e) requested by the victim of the offense discussed in the presentence investigation
273 report, or the victim's authorized representative, if the disclosure is only information relating
274 to:

275 (i) statements or materials provided by the victim;

- 276 (ii) the circumstances of the offense, including statements by the defendant; or
- 277 (iii) the impact of the offense on the victim or the victim's household; or
- 278 (f) requested by a sex offender treatment provider:
- 279 (i) who is certified to provide treatment under the certification program established in
- 280 Subsection 64-13-25(3);
- 281 (ii) who is providing, at the time of the request, sex offender treatment to the offender
- 282 who is the subject of the presentence investigation report; and
- 283 (iii) who provides written assurance to the department that the report:
- 284 (A) is necessary for the treatment of the defendant;
- 285 (B) will be used solely for the treatment of the defendant; and
- 286 (C) will not be disclosed to an individual or entity other than the defendant.
- 287 (8) (a) At the time of sentence, the court shall receive any testimony, evidence, or
- 288 information that the defendant or the prosecuting attorney desires to present concerning the
- 289 appropriate sentence.
- 290 (b) Testimony, evidence, or information under Subsection (8)(a) shall be presented in
- 291 open court on record and in the presence of the defendant.

292 Section 5. Section 77-20-202 is amended to read:

293 **77-20-202. Collection of pretrial information.**

- 294 (1) On or after May 4, 2022, when an individual is arrested without a warrant for an
- 295 offense and booked at a jail facility, an employee at the jail facility, or an employee of a pretrial
- 296 services program, shall submit the following information to the court with the probable cause
- 297 statement to the extent that the information is reasonably available to the employee:
- 298 (a) identification information for the individual, including:
- 299 (i) the individual's legal name and any known aliases;
- 300 (ii) the individual's date of birth;
- 301 (iii) the individual's state identification number;
- 302 (iv) the individual's mobile phone number; and
- 303 (v) the individual's email address;
- 304 (b) the individual's residential address;
- 305 (c) any pending criminal charge or warrant for the individual, including the offense
- 306 tracking number of the current offense for which the individual is booked;

- 307 (d) the individual's probation or parole supervision status;
- 308 (e) whether the individual was on pretrial release for another criminal offense prior to
309 the booking of the individual for the current criminal offense;
- 310 (f) the individual's financial circumstances to the best of the individual's knowledge at
311 the time of booking, including:
- 312 (i) the individual's current employer;
- 313 (ii) the individual's monthly income, including any alimony or child support that
314 contributes to the individual's monthly income;
- 315 (iii) the individual's monthly expenses, including any alimony or child support
316 obligation that the individual is responsible for paying;
- 317 (iv) the individual's ownership of, or any interest in, personal or real property,
318 including any savings or checking accounts or cash;
- 319 (v) the number, ages, and relationships of any dependents;
- 320 (vi) any financial support or benefit that the individual receives from a state or federal
321 government; and
- 322 (vii) any other information about the individual's financial circumstances that may be
323 relevant; ~~and~~
- 324 (g) any ties the individual has to the community, including:
- 325 (i) the length of time that the individual has been at the individual's residential address;
- 326 (ii) any enrollment in a local college, university, or trade school; and
- 327 (iii) the name and contact information for any family member or friend that the
328 individual believes would be willing to provide supervision of the individual[-]; and
- 329 (h) the results of a lethality assessment completed in accordance with Section
330 77-36-2.1, if any.
- 331 (2) Upon request, the jail facility, or the pretrial services program, shall provide the
332 information described in Subsection (1) to the individual, the individual's attorney, or the
333 prosecuting attorney.
- 334 (3) Any information collected from an individual under Subsection (1) is inadmissible
335 in any court proceeding other than:
- 336 (a) a criminal proceeding addressing the individual's pretrial release or indigency for
337 the offense, or offenses, for which the individual was arrested or charged with; or

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

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

342 Section 6. Section **77-20-205** is amended to read:

343 **77-20-205. Pretrial release by a magistrate or judge.**

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

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

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

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

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

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

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

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

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

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

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

369 other resolution of criminal charges.

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

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

374 (i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for
375 pretrial detention as described in Section 77-20-206;

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

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

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

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

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

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

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

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

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

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

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

395 (c) avoid contact with a witness who:

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

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

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

- 400 (e) submit to drug or alcohol testing;
- 401 (f) complete a substance abuse evaluation and comply with any recommended
- 402 treatment or release program;
- 403 (g) submit to electronic monitoring or location device tracking;
- 404 (h) participate in inpatient or outpatient medical, behavioral, psychological, or
- 405 psychiatric treatment;
- 406 (i) maintain employment or actively seek employment if unemployed;
- 407 (j) maintain or commence an education program;
- 408 (k) comply with limitations on where the individual is allowed to be located or the
- 409 times that the individual shall be, or may not be, at a specified location;
- 410 (l) comply with specified restrictions on personal associations, place of residence, or
- 411 travel;
- 412 (m) report to a law enforcement agency, pretrial services program, or other designated
- 413 agency at a specified frequency or on specified dates;
- 414 (n) comply with a specified curfew;
- 415 (o) forfeit or refrain from possession of a firearm or other dangerous weapon;
- 416 (p) if the individual is charged with an offense against a child, limit or prohibit access
- 417 to any location or occupation where children are located, including any residence where
- 418 children are on the premises, activities where children are involved, locations where children
- 419 congregate, or where a reasonable person would know that children congregate;
- 420 (q) comply with requirements for house arrest;
- 421 (r) return to custody for a specified period of time following release for employment,
- 422 schooling, or other limited purposes;
- 423 (s) remain in custody of one or more designated individuals who agree to:
- 424 (i) supervise and report on the behavior and activities of the individual; and
- 425 (ii) encourage compliance with all court orders and attendance at all required court
- 426 proceedings;
- 427 (t) comply with a financial condition; or
- 428 (u) comply with any other condition that is reasonably available and necessary to
- 429 ensure compliance with Subsection (3).
- 430 (5) (a) If a county or municipality has established a pretrial services program, the

431 magistrate or judge shall consider the services that the county or municipality has identified as
432 available in determining what conditions of release to impose.

433 (b) The magistrate or judge may not order conditions of release that would require the
434 county or municipality to provide services that are not currently available from the county or
435 municipality.

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

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

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

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

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

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

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

452 (a) rely upon information contained in:

453 (i) the indictment or information;

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

456 (iii) a pretrial risk assessment;

457 (iv) an affidavit of indigency described in Section [78B-22-201.5](#);

458 (v) witness statements or testimony; [~~or~~]

459 (vi) the results of a lethality assessment completed in accordance with Section
460 [77-36-2.1](#); or

461 [~~(vi)~~] (vii) any other reliable record or source, including proffered evidence; and

- 462 (b) consider:
- 463 (i) the nature and circumstances of the offense, or offenses, that the individual was
- 464 arrested for, or charged with, including:
 - 465 (A) whether the offense is a violent offense; and
 - 466 (B) the vulnerability of a witness or alleged victim;
- 467 (ii) the nature and circumstances of the individual, including the individual's:
 - 468 (A) character;
 - 469 (B) physical and mental health;
 - 470 (C) family and community ties;
 - 471 (D) employment status or history;
 - 472 (E) financial resources;
 - 473 (F) past criminal conduct;
 - 474 (G) history of drug or alcohol abuse; and
 - 475 (H) history of timely appearances at required court proceedings;
- 476 (iii) the potential danger to another individual, or individuals, posed by the release of
- 477 the individual;
 - 478 (iv) whether the individual was on probation, parole, or release pending an upcoming
 - 479 court proceeding at the time the individual allegedly committed the offense or offenses;
 - 480 (v) the availability of:
 - 481 (A) other individuals who agree to assist the individual in attending court when
 - 482 required; or
 - 483 (B) supervision of the individual in the individual's community;
 - 484 (vi) the eligibility and willingness of the individual to participate in various treatment
 - 485 programs, including drug treatment; or
 - 486 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the
 - 487 law if released.
- 488 (8) An individual arrested for violation of a jail release agreement, or a jail release
- 489 court order, issued in accordance with Section [78B-7-802](#):
- 490 (a) may not be released before the individual's first appearance before a magistrate or
- 491 judge; and
- 492 (b) may be denied pretrial release by the magistrate or judge under Subsection (2).

493 Section 7. Section **77-36-2.1** is amended to read:

494 **77-36-2.1. Duties of law enforcement officers -- Notice to victims -- Lethality**
495 **assessments.**

496 (1) For purposes of this section:

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

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

502 (b) "Intimate partner" means an emancipated individual under Section 15-2-1 or an
503 individual who is 16 years old or older who:

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

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

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

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

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

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

510 (c) "Nongovernment organization victim advocate" means the same as that term is
511 defined in Section 77-38-403.

512 (d) "Primary purpose domestic violence organization" means a contract provider of
513 domestic violence services as described in Section 80-2-301.

514 (2) A law enforcement officer who responds to an allegation of domestic violence
515 shall:

516 (a) use all reasonable means to protect the victim and prevent further violence,
517 including:

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

520 [(b)] (ii) confiscating the weapon or weapons involved in the alleged domestic
521 violence;

522 [(c)] (iii) making arrangements for the victim and any child to obtain emergency
523 housing or shelter;

524 ~~[(d)]~~ (iv) providing protection while the victim removes essential personal effects;
525 ~~[(e)]~~ (v) arrange, facilitate, or provide for the victim and any child to obtain medical
526 treatment; and

527 ~~[(f)]~~ (vi) arrange, facilitate, or provide the victim with immediate and adequate notice
528 of the rights of victims and of the remedies and services available to victims of domestic
529 violence, in accordance with Subsection ~~[(2)-]~~ (3); and

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

532 ~~[(2)]~~ (3) (a) A law enforcement officer shall give written notice to the victim in simple
533 language, describing the rights and remedies available under this chapter, Title 78B, Chapter 7,
534 Part 6, Cohabitant Abuse Protective Orders, and Title 78B, Chapter 7, Part 2, Child Protective
535 Orders.

536 (b) The written notice shall also include:

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

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

542 (iii) the information required to be provided to both parties in accordance with
543 Subsections 78B-7-802(8) and (9) .

544 ~~[(3)]~~ (4) If a weapon is confiscated under this section, the law enforcement agency
545 shall return the weapon to the individual from whom the weapon is confiscated if a domestic
546 violence protective order is not issued or once the domestic violence protective order is
547 terminated.

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

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

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

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

554 (d) if the aggressor has a gun or could easily get a gun;

- 555 (e) if the aggressor has ever tried to choke the victim;
556 (f) if the aggressor is violently or constantly jealous, or controls most of the daily
557 activities of the victim;
558 (g) if the victim left or separated from the aggressor after they were living together or
559 married;
560 (h) if the aggressor is unemployed;
561 (i) if the aggressor has ever attempted suicide, to the best of the victim's knowledge;
562 (j) if the victim has a child that the aggressor believes is not the aggressor's biological
563 child;
564 (k) if the aggressor follows or spies on the victim, or leaves threatening messages for
565 the victim; and
566 (l) if there is anything else that worries the victim about the victim's safety and, if so,
567 what worries the victim.
568 (6) A law enforcement officer shall comply with Subsection (7) if:
569 (a) the victim answers affirmatively to any of the questions in Subsections (5)(a)
570 through (c);
571 (b) the victim answers negatively to the questions in Subsections (5)(a) through (c), but
572 affirmatively to at least four of the questions in Subsections (5)(d) through (k); or
573 (c) as a result of the victim's response to the question in Subsection (5)(l), the law
574 enforcement officer believes the victim is in a potentially lethal situation.
575 (7) If the criteria in Subsections (6)(a), (b), or (c) are met, the law enforcement officer
576 shall:
577 (a) advise the victim of the results of the assessment; and
578 (b) refer the victim to a nongovernment organization victim advocate at a primary
579 purpose domestic violence organization.
580 (8) If a victim does not or is unable to provide information to a law enforcement officer
581 sufficient to allow the law enforcement officer to complete a lethality assessment form, or does
582 not speak or is unable to speak with a nongovernment organization victim advocate, the law
583 enforcement officer shall document this information on the lethality assessment form and
584 submit the information to the Department of Public Safety under Subsection (9).
585 (9) (a) Except as provided in Subsection (9)(b), a law enforcement officer shall submit

586 the results of a lethality assessment to the Department of Public Safety while on scene.

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

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

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

596 (10) The Department of Public Safety shall:

597 (a) as soon as practicable, develop and maintain a reporting mechanism by which a law
598 enforcement officer will submit the results of a lethality assessment as required by Subsection
599 (9);

600 (b) provide prompt analytical support to a law enforcement officer who submits the
601 results of a lethality assessment using the reporting mechanism described in Subsection (10)(a);
602 and

603 (c) create and maintain a database of lethality assessment data provided under this
604 section.

605 (11) (a) Subject to Subsection (11)(b), a law enforcement officer shall include the
606 results of a lethality assessment and any related, relevant analysis provided by the Department
607 of Public Safety under Subsection (10), with:

608 (i) a probable cause statement submitted in accordance with Rule 9 of the Utah Rules
609 of Criminal Procedure; and

610 (ii) an incident report prepared in accordance with Section [77-36-2.2](#).

611 (b) In a probable cause statement or incident report, a law enforcement officer may not
612 include information about how or where a victim was referred under Subsection (7)(b).

613 Section 8. Section **77-36-2.2** is amended to read:

614 **77-36-2.2. Powers and duties of law enforcement officers to arrest -- Reports of**
615 **domestic violence cases -- Reports of parties' marital status.**

616 (1) The primary duty of law enforcement officers responding to a domestic violence

617 call is to protect the victim and enforce the law.

618 (2) (a) In addition to the arrest powers described in Section 77-7-2, when a peace
619 officer responds to a domestic violence call and has probable cause to believe that an act of
620 domestic violence has been committed, the peace officer shall arrest without a warrant or shall
621 issue a citation to any person that the peace officer has probable cause to believe has committed
622 an act of domestic violence.

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

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

630 (c) If a peace officer does not immediately exercise arrest powers or initiate criminal
631 proceedings by citation or otherwise, the officer shall notify the victim of the right to initiate a
632 criminal proceeding and of the importance of preserving evidence, in accordance with the
633 requirements of Section 77-36-2.1.

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

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

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

647 (5) (a) A law enforcement officer who does not make an arrest after investigating a

648 complaint of domestic violence, or who arrests two or more parties, shall submit a detailed,
649 written report specifying the grounds for not arresting any party or for arresting both parties.

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

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

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

655 (ii) the results of any lethality assessment completed in accordance with Section
656 [77-36-2.1](#).

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

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

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

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

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

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

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

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

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

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

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

675 (8) Each law enforcement agency shall, as soon as practicable, make a written record
676 and maintain records of all incidents of domestic violence reported to it, and shall be identified
677 by a law enforcement agency code for domestic violence.

678 Section 9. Section **78B-7-120** is amended to read:

679 **78B-7-120. Law enforcement -- Training -- Domestic violence -- Lethality**
680 **assessments.**

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

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

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

687 (c) lethality assessment protocols and interviewing techniques, including indicators of
688 strangulation;

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

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

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

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

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

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

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

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

704 (c) standards for report writing.

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

708 (a) lethality assessments;

709 (b) the prevalence of stalking;

- 710 (c) strangulation;
- 711 (d) violence in the presence of children; and
- 712 (e) threats of suicide or homicide.

713 (6) The Department of Public Safety, with support from the Commission on Criminal
714 and Juvenile Justice and the Division of Child and Family Services shall provide
715 recommendations to the Law Enforcement and Criminal Justice Interim Committee not later
716 than July 31 of each year and in the commission's annual report required by Section
717 [63M-7-205](#).

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

722 Section 10. Section **78B-7-803** is amended to read:

723 **78B-7-803. Pretrial protective orders.**

724 (1) (a) When an alleged perpetrator is charged with a crime involving a qualifying
725 offense, the court shall, at the time of the alleged perpetrator's court appearance under Section
726 [77-36-2.6](#):

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

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

730 (b) Except as provided in Subsection (4), in any criminal case, the court may, during
731 any court hearing where the alleged perpetrator is present, issue a pretrial protective order,
732 pending trial.

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

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

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

740 (b) an order prohibiting the alleged perpetrator from harassing, telephoning, contacting,

741 or otherwise communicating with the victim, directly or indirectly;

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

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

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

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

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

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

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

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

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

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