

Representative V. Lowry Snow proposes the following substitute bill:

PROTECTIVE ORDER REVISIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses protective orders.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ requires the Administrative Office of the Courts to include an expiration date on a civil protective order form;
- ▶ modifies the time frame within which:
 - an objection to certain civil protective orders must be filed; and
 - certain hearings on a civil protective order must be held;
- ▶ modifies the circumstances under which a violation of a civil protective order is a civil offense;
- ▶ modifies the circumstances under which a provision of a cohabitant abuse protective order may be modified or dismissed during a divorce, parentage, custody, or guardianship proceeding;
- ▶ modifies the day on which a civil provision of a cohabitant abuse protective order expires;
- ▶ adds sexual battery as a qualifying offense for protective orders;



- 26 ▶ provides that jail release agreements and other measures can apply when an
- 27 individual is issued a citation and not arrested;
- 28 ▶ modifies the type of contact prohibited under jail release agreements and orders;
- 29 ▶ establishes procedures for a victim's waiver of jail release agreement conditions;
- 30 ▶ prohibits issuance of a continuous protective order against a minor;
- 31 ▶ modifies the expiration date for a criminal protective order issued against a minor;
- 32 and
- 33 ▶ makes technical and conforming changes.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 AMENDS:

- 40 **53-10-208**, as last amended by Laws of Utah 2020, Chapter 142
- 41 **53-10-208.1**, as last amended by Laws of Utah 2020, Chapter 142
- 42 **76-7-101**, as last amended by Laws of Utah 2020, Chapter 260
- 43 **78A-6-114**, as last amended by Laws of Utah 2020, Chapter 142
- 44 **78B-7-105**, as last amended by Laws of Utah 2020, Chapter 142
- 45 **78B-7-108**, as last amended by Laws of Utah 2018, Chapter 255
- 46 **78B-7-203**, as last amended by Laws of Utah 2020, Chapter 142
- 47 **78B-7-405**, as last amended by Laws of Utah 2020, Chapter 142
- 48 **78B-7-408**, as enacted by Laws of Utah 2018, Chapter 255
- 49 **78B-7-505**, as last amended by Laws of Utah 2020, Chapter 142
- 50 **78B-7-603**, as renumbered and amended by Laws of Utah 2020, Chapter 142
- 51 **78B-7-604**, as renumbered and amended by Laws of Utah 2020, Chapter 142
- 52 **78B-7-605**, as renumbered and amended by Laws of Utah 2020, Chapter 142
- 53 **78B-7-606**, as renumbered and amended by Laws of Utah 2020, Chapter 142
- 54 **78B-7-801**, as enacted by Laws of Utah 2020, Chapter 142
- 55 **78B-7-802**, as renumbered and amended by Laws of Utah 2020, Chapter 142
- 56 **78B-7-803**, as enacted by Laws of Utah 2020, Chapter 142

57 [78B-7-804](#), as enacted by Laws of Utah 2020, Chapter 142

58 [78B-7-805](#), as enacted by Laws of Utah 2020, Chapter 142



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

61 Section 1. Section **53-10-208** is amended to read:

62 **53-10-208. Definition -- Offenses included on statewide warrant system --**

63 **Transportation fee to be included -- Statewide warrant system responsibility -- Quality**
64 **control -- Training -- Technical support -- Transaction costs.**

65 (1) "Statewide warrant system" means the portion of the state court computer system
66 that is accessible by modem from the state mainframe computer and contains:

- 67 (a) records of criminal warrant information; and
- 68 (b) after notice and hearing, records of protective orders issued pursuant to:
 - 69 (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;
 - 70 (ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;
 - 71 (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders; [or]
 - 72 (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders[-]; or
 - 73 (v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

74 (2) (a) The division shall include on the statewide warrant system all warrants issued
75 for felony offenses and class A, B, and C misdemeanor offenses in the state.

76 (b) The division shall include on the statewide warrant system all warrants issued for
77 failure to appear on a traffic citation as ordered by a magistrate under Subsection [77-7-19\(3\)](#).

78 (c) For each warrant, the division shall indicate whether the magistrate ordered under
79 Section [77-7-5](#) and Rule 6, Utah Rules of Criminal Procedure, that the accused appear in court.

80 (3) The division is the agency responsible for the statewide warrant system and shall:

81 (a) ensure quality control of all warrants of arrest or commitment and protective orders
82 contained in the statewide warrant system by conducting regular validation checks with every
83 clerk of a court responsible for entering the information on the system;

84 (b) upon the expiration of the protective orders and in the manner prescribed by the
85 division, purge information regarding protective orders described in Subsection
86 [53-10-208.1\(1\)\(d\)](#) within 30 days of the time after expiration;

87 (c) establish system procedures and provide training to all criminal justice agencies

88 having access to information contained on the state warrant system;

89 (d) provide technical support, program development, and systems maintenance for the
90 operation of the system; and

91 (e) pay data processing and transaction costs for state, county, and city law
92 enforcement agencies and criminal justice agencies having access to information contained on
93 the state warrant system.

94 (4) (a) Any data processing or transaction costs not funded by legislative appropriation
95 shall be paid on a pro rata basis by all agencies using the system during the fiscal year.

96 (b) This Subsection (4) supersedes any conflicting provision in Subsection (3)(e).

97 Section 2. Section **53-10-208.1** is amended to read:

98 **53-10-208.1. Magistrates and court clerks to supply information.**

99 (1) Every magistrate or clerk of a court responsible for court records in this state shall,
100 within 30 days of the disposition and on forms and in the manner provided by the division,
101 furnish the division with information pertaining to:

102 (a) all dispositions of criminal matters, including:

103 (i) guilty pleas;

104 (ii) convictions;

105 (iii) dismissals;

106 (iv) acquittals;

107 (v) pleas held in abeyance;

108 (vi) judgments of not guilty by reason of insanity;

109 (vii) judgments of guilty with a mental illness;

110 (viii) finding of mental incompetence to stand trial; and

111 (ix) probations granted;

112 (b) orders of civil commitment under the terms of Section [62A-15-631](#);

113 (c) the issuance, recall, cancellation, or modification of all warrants of arrest or
114 commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section [78B-6-303](#),
115 within one day of the action and in a manner provided by the division; and

116 (d) protective orders issued after notice and hearing, pursuant to:

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

118 (ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;

- 119 (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders; [~~or~~]
- 120 (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders[-]; or
- 121 (v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

122 (2) The court in the county where a determination or finding was made shall transmit a
123 record of the determination or finding to the bureau no later than 48 hours after the
124 determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:

- 125 (a) adjudicated as a mental defective; or
- 126 (b) involuntarily committed to a mental institution in accordance with Subsection

127 [62A-15-631](#)(16).

128 (3) The record described in Subsection (2) shall include:

- 129 (a) an agency record identifier;
- 130 (b) the individual's name, sex, race, and date of birth; and
- 131 (c) the individual's social security number, government issued driver license or
132 identification number, alien registration number, government passport number, state
133 identification number, or FBI number.

134 Section 3. Section **76-7-101** is amended to read:

135 **76-7-101. Bigamy -- Penalty -- Defense.**

136 (1) An individual is guilty of bigamy if:

- 137 (a) the individual purports to marry another individual; and
- 138 (b) knows or reasonably should know that one or both of the individuals described in

139 Subsection (1)(a) are legally married to another individual.

140 (2) An individual who violates Subsection (1) is guilty of an infraction.

141 (3) An individual is guilty of a third degree felony if the individual induces bigamy:

- 142 (a) under fraudulent or false pretenses; or
- 143 (b) by threat or coercion.

144 (4) An individual is guilty of a second degree felony if the individual:

145 (a) cohabitates with another individual with whom the individual is engaged in bigamy
146 as described in Subsection (1); and

147 (b) in furtherance of the conduct described in Subsection (4)(a), commits a felony
148 offense, or for Subsection (4)(b)(vii), a misdemeanor offense, in violation of one or more of the
149 following:

- 150 (i) Chapter 5, Part 2, Criminal Homicide;
- 151 (ii) Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- 152 (iii) Chapter 5, Part 4, Sexual Offenses;
- 153 (iv) Section 76-5-109, child abuse -- child abandonment;
- 154 (v) Section 76-5-111, abuse, neglect, or exploitation of a vulnerable adult;
- 155 (vi) Section 76-5-209, child abuse homicide;
- 156 (vii) Section 76-9-702.1, sexual battery;
- 157 (viii) Section 76-7-201, criminal nonsupport; [or]
- 158 (ix) Title 77, Chapter 36, Cohabitant Abuse Procedures Act[-]; or
- 159 (x) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.
- 160 (5) It is a defense to prosecution under Subsection (2) that:
- 161 (a) the individual ceased the practice of bigamy as described in Subsection (1) under
- 162 reasonable fear of coercion or bodily harm;
- 163 (b) the individual entered the practice of bigamy, as described in Subsection (1), as a
- 164 minor and ceased the practice of bigamy at any time after the individual entered the practice of
- 165 bigamy; or
- 166 (c) law enforcement discovers that the individual practices bigamy, as described in
- 167 Subsection (1), as a result of the individual's efforts to protect the safety and welfare of another
- 168 individual.
- 169 Section 4. Section 78A-6-114 is amended to read:
- 170 **78A-6-114. Hearings -- Public excluded, exceptions -- Victims admitted -- Minor's**
- 171 **cases heard separately from adult cases -- Minor or parents or custodian heard**
- 172 **separately -- Continuance of hearing -- Consolidation of proceedings involving more than**
- 173 **one minor.**
- 174 (1) Hearings in minors' cases shall be held before the court without a jury and may be
- 175 conducted in an informal manner.
- 176 (a) (i) In abuse, neglect, and dependency cases the court shall admit any person to a
- 177 hearing, including a hearing under Section 78A-6-322, unless the court makes a finding upon
- 178 the record that the person's presence at the hearing would:
- 179 (A) be detrimental to the best interest of a child who is a party to the proceeding;
- 180 (B) impair the fact-finding process; or

181 (C) be otherwise contrary to the interests of justice.

182 (ii) The court may exclude a person from a hearing under Subsection (1)(a)(i) on its
183 own motion or by motion of a party to the proceeding.

184 (b) In delinquency cases the court shall admit all persons who have a direct interest in
185 the case and may admit persons requested by the parent or legal guardian to be present. The
186 court shall exclude all other persons except as provided in Subsection (1)(c).

187 (c) In delinquency cases in which the minor charged is 14 years ~~[of age]~~ old or older,
188 the court shall admit any person unless the hearing is closed by the court upon findings on the
189 record for good cause if:

190 (i) the minor has been charged with an offense which would be a felony if committed
191 by an adult; or

192 (ii) the minor is charged with an offense that would be a class A or B misdemeanor if
193 committed by an adult, and the minor has been previously charged with an offense which
194 would be a misdemeanor or felony if committed by an adult.

195 (d) (i) ~~[The]~~ Except as provided in Subsection (1)(d)(ii) and Title 78B, Chapter 7, Part
196 8, Criminal Protective Orders, the victim of any act charged in a petition or information
197 involving an offense committed by a minor which if committed by an adult would be a felony
198 or a class A or class B misdemeanor shall, upon request, be afforded all rights afforded victims
199 in Title 77, Chapter 36, Cohabitant Abuse Procedures Act, Title 77, Chapter 37, Victims'
200 Rights, Title 77, Chapter 38, Rights of Crime Victims Act, and Title 78B, Chapter 7, Part 8,
201 Criminal Protective Orders.

202 (ii) The notice provisions in Section [77-38-3](#) do not apply to important juvenile justice
203 hearings as defined in Section [77-38-2](#).

204 (e) A victim, upon request to appropriate juvenile court personnel, shall have the right
205 to inspect and duplicate juvenile court legal records that have not been expunged concerning:

206 (i) the scheduling of any court hearings on the petition;

207 (ii) any findings made by the court; and

208 (iii) any sentence or decree imposed by the court.

209 (2) Minors' cases shall be heard separately from adult cases. The minor or the parents
210 or custodian of a minor may be heard separately when considered necessary by the court. The
211 hearing may be continued from time to time to a date specified by court order.

212 (3) When more than one child is involved in a home situation which may be found to
213 constitute neglect or dependency, or when more than one minor is alleged to be involved in the
214 same law violation, the proceedings may be consolidated, except that separate hearings may be
215 held with respect to disposition.

216 Section 5. Section **78B-7-105** is amended to read:

217 **78B-7-105. Forms for petitions, civil protective orders, and civil stalking**
218 **injunctions -- Assistance -- Fees.**

219 (1) (a) The offices of the court clerk shall provide forms to an individual seeking any of
220 the following under this chapter:

- 221 (i) an ex parte civil protective order;
- 222 (ii) a civil protective order;
- 223 (iii) an ex parte stalking injunction; or
- 224 (iv) a civil stalking injunction.

225 (b) The Administrative Office of the Courts shall:

- 226 (i) develop and adopt uniform forms for petitions and the protective orders and stalking
227 injunctions described in Subsection (1)(a) in accordance with the provisions of this chapter;
- 228 and

- 229 (ii) provide the forms to the clerk of each court authorized to issue the protective orders
230 and stalking injunctions described in Subsection (1)(a).

231 (2) The forms described in Subsection (1)(b) shall include:

232 (a) for a petition for an ex parte civil protective order or a civil protective order:

- 233 (i) a statement notifying the petitioner for an ex parte civil protective order that
234 knowing falsification of any statement or information provided for the purpose of obtaining a
235 civil protective order may subject the petitioner to felony prosecution;

- 236 (ii) language indicating the criminal penalty for a violation of an ex parte civil
237 protective order or a civil protective order under this chapter and language stating a violation of
238 or failure to comply with a civil provision is subject to contempt proceedings;

- 239 (iii) a space for information the petitioner is able to provide to facilitate identification
240 of the respondent, including the respondent's social security number, driver license number,
241 date of birth, address, telephone number, and physical description;

- 242 (iv) a space for information the petitioner is able to provide related to a proceeding for

243 a civil protective order or a criminal protective order, civil litigation, a proceeding in juvenile
244 court, or a criminal case involving either party, including the case name, file number, the
245 county and state of the proceeding, and the judge's name; [and]

246 (v) a space to indicate whether the party to be protected is an intimate partner to the
247 respondent or a child of an intimate partner to the respondent; and

248 (vi) a space for the date on which the provisions of the protective order expire; and

249 (b) for a petition under Part 6, Cohabitant Abuse Protective Orders:

250 (i) a separate portion of the form for those provisions, the violation of which is a
251 criminal offense, and a separate portion for those provisions, the violation of which is a civil
252 violation;

253 (ii) a statement advising the petitioner that when a child is included in an ex parte
254 protective order or a protective order, as part of either the criminal or the civil portion of the
255 order, the petitioner may provide a copy of the order to the principal of the school that the child
256 attends; and

257 (iii) a statement advising the petitioner that if the respondent fails to return custody of a
258 minor child to the petitioner as ordered in a protective order, the petitioner may obtain from the
259 court a writ of assistance.

260 (3) If the individual seeking to proceed as a petitioner under this chapter is not
261 represented by an attorney, the court clerk's office shall provide nonlegal assistance, including:

262 (a) the forms adopted under Subsection (1)(b);

263 (b) all other forms required to petition for a protective order or stalking injunction
264 described in Subsection (1)(a), including forms for service;

265 (c) clerical assistance in filling out the forms and filing the petition, or if the court
266 clerk's office designates another entity, agency, or person to provide that service, oversight over
267 the entity, agency, or person to see that the service is provided;

268 (d) information regarding the means available for the service of process;

269 (e) a list of legal service organizations that may represent the petitioner in an action
270 brought under this chapter, together with the telephone numbers of those organizations; and

271 (f) written information regarding the procedure for transporting a jailed or imprisoned
272 respondent to the protective order hearing, including an explanation of the use of transportation
273 order forms when necessary.

274 (4) A court clerk, constable, or law enforcement agency may not impose a charge for:

275 (a) filing a petition under this chapter;

276 (b) obtaining an ex parte civil protective order or ex parte civil stalking injunction;

277 (c) obtaining copies, either certified or uncertified, necessary for service or delivery to

278 law enforcement officials; or

279 (d) fees for service of:

280 (i) a petition under this chapter;

281 (ii) an ex parte civil protective order;

282 (iii) a civil protective order;

283 (iv) an ex parte civil stalking injunction; or

284 (v) a civil stalking injunction.

285 (5) A petition for an ex parte civil protective order and a civil protective order shall be

286 in writing and verified.

287 (6) (a) The protective orders and stalking injunctions described in Subsection (1)(a)

288 shall be issued in the form adopted by the Administrative Office of the Courts under

289 Subsection (1)(b).

290 (b) A civil protective order that is issued shall, if applicable, include the following

291 language:

292 "Respondent was afforded both notice and opportunity to be heard in the hearing that

293 gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322,

294 108 Stat. 1796, 18 U.S.C. Sec. 2265, this order is valid in all the United States, the District of

295 Columbia, tribal lands, and United States territories. This order complies with the Uniform

296 Interstate Enforcement of Domestic Violence Protection Orders Act.";

297 (c) An ex parte civil protective order and a civil protective order issued under Part 6,

298 Cohabitant Abuse Protective Orders, shall include the following language:

299 "NOTICE TO PETITIONER: The court may amend or dismiss a protective order after

300 one year if it finds that the basis for the issuance of the protective order no longer exists and the

301 petitioner has repeatedly acted in contravention of the protective order provisions to

302 intentionally or knowingly induce the respondent to violate the protective order, demonstrating

303 to the court that the petitioner no longer has a reasonable fear of the respondent.";

304 (d) A child protective order issued under Part 2, Child Protective Orders, shall include:

305 (i) the date the order expires; and

306 (ii) a statement that the address provided by the petitioner will not be made available to
307 the respondent.

308 (7) (a) (i) The court clerk shall provide, without charge, to the petitioner, one certified
309 copy of a civil stalking injunction issued by the court and one certified copy of the proof of
310 service of the civil stalking injunction on the respondent.

311 (ii) A charge may be imposed by the court clerk's office for any copies in addition to
312 the copy described in Subsection (7)(a)(i), certified or uncertified.

313 (b) An ex parte civil stalking injunction and civil stalking injunction shall include the
314 following statement:

315 "Attention: This is an official court order. If you disobey this order, the court may find
316 you in contempt. You may also be arrested and prosecuted for the crime of stalking and any
317 other crime you may have committed in disobeying this order.".

318 Section 6. Section **78B-7-108** is amended to read:

319 **78B-7-108. Mutual protective orders.**

320 (1) A court may not grant a mutual order or mutual [~~orders for protection~~] civil
321 protective orders to opposing parties, unless each party:

322 (a) files an independent petition against the other for a civil protective order, and both
323 petitions are served;

324 (b) makes a showing at a due process civil protective order hearing of abuse or
325 domestic violence committed by the other party; and

326 (c) demonstrates the abuse or domestic violence did not occur in self-defense.

327 (2) If the court issues mutual civil protective orders, the court shall include specific
328 findings of all elements of Subsection (1) in the court order justifying the entry of the court
329 order.

330 (3) (a) [~~A~~] Except as provided in Subsection (3)(b), a court may not grant [an order for
331 protection to a civil petitioner] a civil protective order to a petitioner who is the respondent or
332 defendant subject to a protective order, child protective order, or ex parte child protective
333 order:

334 [~~(a)~~] (i) issued under:

335 [~~(i) a foreign protection order enforceable under Chapter 7, Part 3, Uniform Interstate~~

336 ~~Enforcement of Domestic Violence Protection Orders Act;~~

337 ~~[(ii)] (A) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;~~

338 ~~[(iii)] (B) Title 78A, Chapter 6, Juvenile Court Act; [or]~~

339 ~~[(iv)] Chapter 7, Part 1, Cohabitant Abuse Act; and]~~

340 (C) Part 6, Cohabitant Abuse Protective Orders; or

341 (D) Part 8, Criminal Protective Orders; or

342 (ii) enforceable under Part 3, Uniform Interstate Enforcement of Domestic Violence
 343 Protection Orders Act.

344 (b) ~~[unless]~~ The court may grant a civil protective order to a petitioner described in
 345 Subsection (3)(a) if:

346 (i) the court determines that the requirements of Subsection (1) are met[; and]; and

347 ~~[(i)]~~ (ii) (A) the same court [issued the order for protection] that issued the protective
 348 order, child protective order, or ex parte child protective order issues the civil protective order
 349 against the respondent; or

350 ~~[(i)]~~ (B) if the matter is before a subsequent court, the subsequent court[;-(A)]
 351 determines it would be impractical for the original court to consider the matter[;] or [(B)]
 352 confers with the court that issued the [order for protection] protective order, child protective
 353 order, or ex parte child protective order.

354 Section 7. Section **78B-7-203** is amended to read:

355 **78B-7-203. Hearings.**

356 (1) (a) If an ex parte child protective order is granted, the court shall schedule a hearing
 357 to be held within ~~[20]~~ 21 days after the day on which the court makes the ex parte
 358 determination.

359 (b) If an ex parte child protective order is denied, the court, upon the request of the
 360 petitioner made within five days after the day on which the court makes the ex parte
 361 determination, shall schedule a hearing to be held within ~~[20]~~ 21 days after the day on which
 362 the petitioner makes the request.

363 (2) (a) The petition, ex parte child protective order, and notice of hearing shall be
 364 served on the respondent, the child's parent or guardian, and, if appointed, the guardian ad
 365 litem.

366 (b) The notice of hearing described in Subsection (2)(a) shall contain:

367 ~~[(a)]~~ (i) the name and address of the individual to whom the notice is directed;
 368 ~~[(b)]~~ (ii) the date, time, and place of the hearing;
 369 ~~[(c)]~~ (iii) the name of the child on whose behalf a petition is being brought; and
 370 ~~[(d)]~~ (iv) a statement that an individual is entitled to have an attorney present at the
 371 hearing.

372 (3) The court shall provide an opportunity for any person having relevant knowledge to
 373 present evidence or information and may hear statements by counsel.

374 (4) An agent of the division served with a subpoena in compliance with the Utah Rules
 375 of Civil Procedure shall testify in accordance with the Utah Rules of Evidence.

376 (5) The court shall issue a child protective order if the court determines, based on a
 377 preponderance of the evidence, that:

378 (a) for a petition for a child protective order filed under Subsection 78B-7-202(1)(a)(i),
 379 the child is being abused or is in imminent danger of being abused; or

380 (b) for a petition for a protective order filed under Subsection 78B-7-202(1)(a)(ii), the
 381 child has been abused and the child protective order is necessary to protect the child.

382 (6) ~~[With the exception of the provisions of]~~ Except as provided in Section 78A-6-323,
 383 a child protective order is not an adjudication of abuse, neglect, or dependency under Title
 384 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

385 Section 8. Section 78B-7-405 is amended to read:

386 **78B-7-405. Hearings -- Expiration -- Extension.**

387 (1) (a) The court shall set a date for a hearing on the petition for a dating violence
 388 protective order to be held within ~~[20]~~ 21 days after the day on which the court issues an ex
 389 parte dating violence protective order.

390 (b) If, at the hearing described in Subsection (1)(a), the court does not issue a dating
 391 violence protective order, the ex parte dating protective order shall expire, unless ~~[the dating~~
 392 ~~violence protective order is]~~ extended by the court.

393 ~~(c) (i) [Extensions beyond the 20-day period may not be granted unless]~~ The court may
 394 extend the 21-day period described in Subsection (1)(a) only if:

395 ~~[(i)]~~ (A) the petitioner is unable to be present at the hearing;

396 ~~[(ii)]~~ (B) the respondent has not been served; or

397 ~~[(iii)]~~ (C) exigent circumstances exist.

398 ~~[(e)]~~ (ii) Under no circumstances may an ex parte dating violence protective order be
399 extended beyond 180 days from the day on which the court issues the initial ex parte dating
400 violence protective order.

401 (d) If, at the hearing described in Subsection (1)(a), the court issues a dating violence
402 protective order, the ex parte dating violence protective order shall remain in effect until
403 service of process of the dating violence protective order is completed.

404 (e) A dating violence protective order ~~[issued after notice and a hearing shall remain]~~
405 remains in effect for three years after the day on which the ~~[order is issued]~~ court issues the
406 order.

407 (f) If the hearing ~~[on the petition is heard]~~ described in Subsection (1)(a) is held by a
408 commissioner, ~~[either]~~ the petitioner or respondent may file an objection within ~~[10]~~ 14
409 calendar days after the day on which the ~~[recommended order is entered]~~ commissioner
410 recommends the order, and, if the petitioner or respondent requests a hearing be held, the
411 assigned judge shall hold a hearing on the objection within ~~[20]~~ 21 days after the day on which
412 the objection is filed.

413 (2) Upon a hearing under this section, the court may grant any of the relief permitted
414 under Section [78B-7-404](#), except the court shall not grant the relief described in Subsection
415 [78B-7-404\(3\)\(b\)](#) without providing the respondent notice and an opportunity to be heard.

416 (3) If ~~[a]~~ the court denies a petition for an ex parte dating violence protective order or a
417 petition to modify a dating violence protective order ex parte, the court shall, upon the
418 petitioner's request made within five days after the day on which the court denies the petition:

419 (a) set the matter for a hearing to be held within ~~[20]~~ 21 days after the day on which the
420 petitioner makes the request; and

421 (b) notify and serve the respondent.

422 (4) (a) A dating violence protective order automatically expires ~~[as described in]~~ under
423 Subsection (1)(e), unless the petitioner files a motion before the day on which the dating
424 violence protective order expires requesting an extension of the dating violence protective
425 order and demonstrates that:

426 ~~[(a)]~~ (i) there is a substantial likelihood the petitioner will be subjected to dating
427 violence; or

428 ~~[(b)]~~ (ii) the respondent committed or was convicted of a violation of the dating

429 violence protective order that the petitioner requests be extended or dating violence after the
430 day on which the dating violence protective order is issued.

431 (b) (i) If the court denies the motion described in Subsection (4)(a), the dating violence
432 protective order expires under Subsection (1)(e).

433 ~~[(5)-(a)]~~ (ii) If the court grants the motion ~~[under]~~ described in Subsection (4)(a), the
434 court shall set a new date on which the dating violence protective order expires.

435 ~~[(b) The dating violence protective order shall expire on the date set by the court unless~~
436 ~~the petitioner files a motion described in Subsection (4) to extend the dating violence~~
437 ~~protective order.]~~

438 Section 9. Section **78B-7-408** is amended to read:

439 **78B-7-408. Duties of law enforcement officers -- Notice to victims.**

440 (1) A law enforcement officer who responds to an allegation of dating violence shall
441 use all reasonable means to protect the victim and prevent further violence, including:

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

444 (b) confiscating the weapon or weapons involved in the alleged dating violence;

445 (c) making arrangements for the victim and any child to obtain emergency housing or
446 shelter;

447 (d) providing protection while the victim removes essential personal effects;

448 (e) arranging, facilitating, or providing for the victim and any child to obtain medical
449 treatment; and

450 (f) arranging, facilitating, or providing the victim with immediate and adequate notice
451 of the rights of victims and of the remedies and services available to victims of dating violence,
452 in accordance with Subsection (2).

453 (2) (a) A law enforcement officer shall give written notice to the victim in simple
454 language, describing the rights and remedies available under this chapter.

455 (b) The written notice shall also include:

456 (i) a statement that the forms needed in order to obtain ~~[an order for protection]~~ a
457 protective order are available from the court clerk's office in the judicial district where the
458 victim resides or is temporarily domiciled; and

459 (ii) a list of shelters, services, and resources available in the appropriate community,

460 together with telephone numbers, to assist the victim in accessing any needed assistance.

461 (3) If a weapon is confiscated under this section, the law enforcement agency shall
462 return the weapon to the individual from whom the weapon is confiscated if a dating protective
463 order is not issued or once the dating protective order is terminated.

464 Section 10. Section **78B-7-505** is amended to read:

465 **78B-7-505. Hearings -- Expiration -- Extension.**

466 (1) (a) The court shall set a date for a hearing on the petition for a sexual violence
467 protective order to be held within [20] 21 days after the day on which the court issues an ex
468 parte protective order.

469 (b) If, at the hearing described in Subsection (1)(a), the court does not issue a sexual
470 violence protective order, the ex parte sexual protective order expires, unless extended by the
471 [district] court.

472 (c) The court may extend the [20-day] 21-day period described in Subsection (1)(a)
473 only if:

474 (i) a party is unable to be present at the hearing for good cause, established by the
475 party's sworn affidavit;

476 (ii) the respondent has not been served; or

477 (iii) exigent circumstances exist.

478 (d) If, at the hearing described in Subsection (1)(a), the court issues a sexual violence
479 protective order, the ex parte sexual violence protective order remains in effect until service of
480 process of the sexual violence protective order is completed.

481 (e) A sexual violence protective order remains in effect for three years after the day on
482 which the court issues the order.

483 (f) If the hearing described in Subsection (1)(a) is held by a commissioner, the
484 petitioner or respondent may file an objection within [10] 14 calendar days after the day on
485 which the commissioner [~~enters the recommended~~] recommends the order, and, if the petitioner
486 or respondent requests a hearing be held, the assigned judge shall hold a hearing on the
487 objection within [20] 21 days after the day on which the objection is filed.

488 (2) If the court denies a petition for an ex parte sexual violence protective order or a
489 petition to modify a sexual violence protective order ex parte, the court shall, upon the
490 petitioner's request made within five days after the day on which the court denies the petition:

491 (a) set the matter for hearing to be held within [20] 21 days after the day on which the
492 petitioner makes the request; and

493 (b) notify and serve the respondent.

494 (3) (a) A sexual violence protective order automatically expires under Subsection
495 (1)(e) unless the petitioner files a motion before the day on which the sexual violence
496 protective order expires requesting an extension of the sexual violence protective order and
497 demonstrates that:

498 (i) there is a substantial likelihood the petitioner will be subjected to sexual violence;

499 or

500 (ii) the respondent committed or was convicted of a violation of the sexual violence
501 protective order that the petitioner requests be extended or a sexual violence offense after the
502 day on which the sexual violence protective order is issued.

503 (b) (i) If the court denies the motion described in Subsection (3)(a), the sexual violence
504 protective order expires under Subsection (1)(e).

505 (ii) If the court grants the motion described in Subsection (3)(a), the court shall set a
506 new date on which the sexual violence protective order expires.

507 (iii) A sexual violence protective order that is extended under this Subsection (3), may
508 not be extended for more than three years after the day on which the court issues the order for
509 extension.

510 (c) After the day on which the court issues an extension of a sexual violence protective
511 order, the court shall take the action described in Subsection [78B-7-504\(6\)](#).

512 (4) Nothing in this part prohibits a petitioner from seeking another protective order
513 after the day on which the petitioner's protective order expires.

514 Section 11. Section **78B-7-603** is amended to read:

515 **78B-7-603. Cohabitant abuse protective orders -- Ex parte cohabitant abuse**
516 **protective orders -- Modification and dismissal of orders -- Service of process -- Duties of**
517 **the court.**

518 (1) If it appears from a petition for a protective order or a petition to modify a
519 protective order that domestic violence or abuse has occurred, that there is a substantial
520 likelihood domestic violence or abuse will occur, or that a modification of a protective order is
521 required, a court may:

522 (a) without notice, immediately issue an ex parte cohabitant abuse protective order or
523 modify a protective order ex parte as the court considers necessary to protect the petitioner and
524 all parties named to be protected in the petition; or

525 (b) upon notice, issue a protective order or modify an order after a hearing, regardless
526 of whether the respondent appears.

527 (2) A court may grant the following relief without notice in a protective order or a
528 modification issued ex parte:

529 (a) enjoin the respondent from threatening to commit domestic violence or abuse,
530 committing domestic violence or abuse, or harassing the petitioner or any designated family or
531 household member;

532 (b) prohibit the respondent from telephoning, contacting, or otherwise communicating
533 with the petitioner or any designated family or household member, directly or indirectly, with
534 the exception of any parent-time provisions in the ex parte order;

535 (c) subject to Subsection (2)(e), prohibit the respondent from being within a specified
536 distance of the petitioner;

537 (d) subject to Subsection (2)(e), order that the respondent is excluded from and is to
538 stay away from the following places and their premises:

539 (i) the petitioner's residence or any designated family or household member's residence;

540 (ii) the petitioner's school or any designated family or household member's school;

541 (iii) the petitioner's or any designated family or household member's place of
542 employment;

543 (iv) the petitioner's place of worship or any designated family or household member's
544 place of worship; or

545 (v) any specified place frequented by the petitioner or any designated family or
546 household member;

547 (e) if the petitioner or designated family or household member attends the same school
548 as the respondent, is employed at the same place of employment as the respondent, or attends
549 the same place of worship, the court:

550 (i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent
551 from the respondent's school, place of employment, or place of worship; and

552 (ii) may enter an order governing the respondent's conduct at the respondent's school,

553 place of employment, or place of worship;

554 (f) upon finding that the respondent's use or possession of a weapon may pose a serious
555 threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a
556 firearm or other weapon specified by the court;

557 (g) order possession and use of an automobile and other essential personal effects, and
558 direct the appropriate law enforcement officer to accompany the petitioner to the residence of
559 the parties to ensure that the petitioner is safely restored to possession of the residence,
560 automobile, and other essential personal effects, or to supervise the petitioner's or respondent's
561 removal of personal belongings;

562 (h) order the respondent to maintain an existing wireless telephone contract or account;

563 (i) grant to the petitioner or someone other than the respondent temporary custody of a
564 minor child of the parties;

565 (j) order the appointment of an attorney guardian ad litem under Sections [78A-2-703](#)
566 and [78A-6-902](#);

567 (k) order any further relief that the court considers necessary to provide for the safety
568 and welfare of the petitioner and any designated family or household member; and

569 (l) if the petition requests child support or spousal support, at the hearing on the
570 petition order both parties to provide verification of current income, including year-to-date pay
571 stubs or employer statements of year-to-date or other period of earnings, as specified by the
572 court, and complete copies of tax returns from at least the most recent year.

573 (3) A court may grant the following relief in a cohabitant abuse protective order or a
574 modification of an order after notice and hearing, regardless of whether the respondent appears:

575 (a) grant the relief described in Subsection (2); and

576 (b) specify arrangements for parent-time of any minor child by the respondent and
577 require supervision of that parent-time by a third party or deny parent-time if necessary to
578 protect the safety of the petitioner or child.

579 (4) In addition to the relief granted under Subsection (3), the court may order the
580 transfer of a wireless telephone number in accordance with Section [78B-7-117](#).

581 (5) Following the cohabitant abuse protective order hearing, the court shall:

582 (a) as soon as possible, deliver the order to the county sheriff for service of process;

583 (b) make reasonable efforts to ensure that the cohabitant abuse protective order is

584 understood by the petitioner, and the respondent, if present;

585 (c) transmit electronically, by the end of the next business day after the order is issued,
586 a copy of the cohabitant abuse protective order to the local law enforcement agency or agencies
587 designated by the petitioner;

588 (d) transmit a copy of the order to the statewide domestic violence network described
589 in Section [78B-7-113](#); and

590 (e) if the individual is a respondent or defendant subject to a court order that meets the
591 qualifications outlined in 18 U.S.C. Sec. 922(g)(8), transmit within 48 hours, excluding
592 Saturdays, Sundays, and legal holidays, a record of the order to the Bureau of Criminal
593 Identification that includes:

594 (i) an agency record identifier;

595 (ii) the individual's name, sex, race, and date of birth;

596 (iii) the issue date, conditions, and expiration date for the protective order; and

597 (iv) if available, the individual's social security number, government issued driver
598 license or identification number, alien registration number, government passport number, state
599 identification number, or FBI number.

600 (6) Each protective order shall include two separate portions, one for provisions, the
601 violation of which are criminal offenses, and one for provisions, the violation of which are civil
602 [~~violations~~] offenses, as follows:

603 (a) criminal offenses are those under Subsections (2)(a) through (g), and under
604 Subsection (3)(a) as it refers to Subsections (2)(a) through (g); and

605 (b) civil offenses are those under Subsections (2)(h)[~~-(j), (k), and~~] through (l), [~~and~~]
606 Subsection (3)(a) as it refers to Subsections (2)(h)[~~-(j), (k), and (l)~~] through (l), and Subsection
607 (3)(b).

608 (7) Child support and spouse support orders issued as part of a protective order are
609 subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income
610 Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non
611 IV-D Cases, except when the protective order is issued ex parte.

612 (8) (a) The county sheriff that receives the order from the court, under Subsection [~~(6)~~]
613 (5), shall provide expedited service for protective orders issued in accordance with this part,
614 and shall transmit verification of service of process, when the order has been served, to the

615 statewide domestic violence network described in Section 78B-7-113.

616 (b) This section does not prohibit any law enforcement agency from providing service
617 of process if that law enforcement agency:

618 (i) has contact with the respondent and service by that law enforcement agency is
619 possible; or

620 (ii) determines that under the circumstances, providing service of process on the
621 respondent is in the best interests of the petitioner.

622 (9) (a) When an order is served on a respondent in a jail or other holding facility, the
623 law enforcement agency managing the facility shall make a reasonable effort to provide notice
624 to the petitioner at the time the respondent is released from incarceration.

625 (b) Notification of the petitioner shall consist of a good faith reasonable effort to
626 provide notification, including mailing a copy of the notification to the last-known address of
627 the victim.

628 (10) A court may modify or vacate a protective order or any provisions in the
629 protective order after notice and hearing, except that the criminal provisions of a cohabitant
630 abuse protective order may not be vacated within two years of issuance unless the petitioner:

631 (a) is personally served with notice of the hearing, as provided in the Utah Rules of
632 Civil Procedure, and the petitioner personally appears, in person or through court video
633 conferencing, before the court and gives specific consent to the vacation of the criminal
634 provisions of the cohabitant abuse protective order; or

635 (b) submits a verified affidavit, stating agreement to the vacation of the criminal
636 provisions of the cohabitant abuse protective order.

637 (11) A protective order may be modified without a showing of substantial and material
638 change in circumstances.

639 (12) A civil provision of a [~~cohabitant abuse~~] protective order described in Subsection
640 (6) may be dismissed or modified at any time in a divorce, parentage, custody, or guardianship
641 proceeding that is pending between the parties to the [~~cohabitant abuse~~] protective order action
642 [~~after 150 days after the day on which the cohabitant abuse protective order is issued~~] if:

643 (a) the parties stipulate in writing or on the record to dismiss or modify a civil
644 provision of the [~~cohabitant abuse~~] protective order; or

645 (b) the court in the divorce, parentage, custody, or guardianship proceeding finds good

646 cause to dismiss or modify the civil provision.

647 Section 12. Section **78B-7-604** is amended to read:

648 **78B-7-604. Hearings.**

649 (1) (a) [~~When a court issues an ex parte cohabitant abuse protective order the~~] The
650 court shall set a date for a hearing on the petition for a cohabitant abuse protective order to be
651 held within [~~20~~] 21 days after the day on which the court issues an ex parte cohabitant abuse
652 protective order [~~is issued~~].

653 (b) If, at [~~that~~] the hearing described in Subsection (1)(a), the court does not issue a
654 protective order, the ex parte cohabitant abuse protective order [~~shall expire, unless the~~
655 ~~cohabitant abuse protective order is otherwise extended by the court. Extensions beyond the~~
656 ~~20-day period may not be granted unless:~~] expires, unless extended by the court.

657 (c) (i) The court may extend the 21-day period described in Subsection (1)(a) only if:

658 [(i)] (A) the petitioner is unable to be present at the hearing;

659 [(ii)] (B) the respondent has not been served;

660 [(iii)] (C) the respondent has had the opportunity to present a defense at the hearing;

661 [(iv)] (D) the respondent requests that the ex parte cohabitant abuse protective order be

662 extended; or

663 [(v)] (E) exigent circumstances exist.

664 [(e)] (ii) Under no circumstances may an ex parte cohabitant abuse protective order be
665 extended beyond 180 days from the day on which the court issues the initial ex parte cohabitant
666 abuse protective order.

667 (d) If, at that hearing described in Subsection (1)(a), the court issues a cohabitant abuse
668 protective order, the ex parte cohabitant abuse protective order remains in effect until service of
669 process of the protective order is completed.

670 (e) A cohabitant abuse protective order issued after notice and a hearing is effective
671 until further order of the court.

672 (f) If the hearing [~~on the petition is heard~~] described in Subsection (1)(a) is held by a
673 commissioner, [~~either~~] the petitioner or respondent may file an objection within [~~10~~] 14 days
674 after the day on which the [~~recommended~~] commissioner recommends the order, and, if the
675 petitioner or respondent requests a hearing be held, the assigned judge shall hold a hearing
676 within [~~20~~] 21 days after the day on which the objection is filed.

677 (2) Upon a hearing under this section, the court may grant any of the relief described in
678 Section 78B-7-603.

679 (3) [~~When a court denies a petition~~] If the court denies a petition for an ex parte
680 cohabitant abuse protective order or a petition to modify a protective order ex parte, the court
681 shall, upon the request of the petitioner made within five days after the day on which the court
682 denies the petition[~~, the court shall~~]:

683 (a) set the matter for hearing to be held within [~~20~~] 21 days after the day on which the
684 petitioner makes the request; and

685 (b) notify [~~the petitioner~~] and serve the respondent.

686 (4) (a) A respondent who has been served with an ex parte cohabitant abuse protective
687 order may seek to vacate the ex parte cohabitant abuse protective order [~~under~~] described in
688 Subsection (1)(a) by filing a verified motion to vacate before the day on which the hearing is
689 set.

690 (b) The respondent's verified motion to vacate described in Subsection (4)(a) and a
691 notice of hearing on [~~that~~] the motion shall be personally served on the petitioner at least two
692 days before the day on which the hearing on the motion to vacate is set.

693 Section 13. Section ~~78B-7-605~~ is amended to read:

694 **78B-7-605. Dismissal.**

695 (1) The court may amend or dismiss a protective order issued in accordance with this
696 part that has been in effect for at least one year if the court finds that:

697 (a) the basis for the issuance of the protective order no longer exists;

698 (b) the petitioner has repeatedly acted in contravention of the protective order
699 provisions to intentionally or knowingly induce the respondent to violate the protective order;
700 and

701 (c) the petitioner's actions demonstrate that the petitioner no longer has a reasonable
702 fear of the respondent.

703 (2) The court shall enter sanctions against either party if the court determines that
704 either party acted:

705 (a) in bad faith; or

706 (b) with intent to harass or intimidate the other party.

707 (3) [~~Except as provided in Subsection (4), if~~] If a divorce proceeding is pending

708 between parties to a protective order action, the court shall dismiss the protective order [~~shall~~
709 ~~be dismissed~~] when the court issues a decree of divorce for the parties if:

710 (a) the respondent files a motion to dismiss a protective order in both the divorce
711 action and the protective order action and personally serves the petitioner; and

712 (b) (i) the parties stipulate in writing or on the record to dismiss the protective order; or
713 (ii) based on evidence at the divorce trial, the court determines that the petitioner no
714 longer has a reasonable fear of future harm, abuse, or domestic violence.

715 (4) When the court dismisses a protective order, the court shall immediately:

716 (a) issue an order of dismissal to be filed in the protective order action; and

717 (b) transmit a copy of the order of dismissal to the statewide domestic violence
718 network as described in Section [78B-7-113](#).

719 Section 14. Section **78B-7-606** is amended to read:

720 **78B-7-606. Expiration -- Extension.**

721 (1) (a) [~~Subject~~] Except as provided in Subsection (1)(b) and subject to the other
722 provisions of this section, a cohabitant abuse protective order automatically expires three years
723 after the day on which the cohabitant abuse protective order is entered.

724 (b) (i) The civil provisions of a cohabitant abuse protective order described in Section
725 [78B-7-603](#) expires 150 days after the day on which the cohabitant abuse protective order is
726 entered, unless the court finds good cause for extending the expiration date of the civil
727 provisions.

728 (ii) Unless a motion under this section is granted, a court may not extend the civil
729 provisions of a cohabitant abuse protective order for more than three years after the day on
730 which the cohabitant abuse protective order is entered.

731 (2) A cohabitant abuse protective order automatically expires [~~as described in~~] under
732 Subsection (1), unless the petitioner files a motion before the day on which the cohabitant
733 abuse protective order expires and demonstrates that:

734 (a) the petitioner has a current reasonable fear of future harm, abuse, or domestic
735 violence; or

736 (b) the respondent committed or was convicted of a cohabitant abuse protective order
737 violation or a qualifying domestic violence offense, as defined in Section [77-36-1.1](#),
738 subsequent to the issuance of the cohabitant abuse protective order.

739 (3) (a) If the court grants the motion under Subsection (2), the court shall set a new
740 date on which the cohabitant abuse protective order expires.

741 (b) The cohabitant abuse protective order will expire on the date set by the court unless
742 the petitioner files a motion described in Subsection (2) to extend the cohabitant abuse
743 protective order.

744 Section 15. Section **78B-7-801** is amended to read:

745 **78B-7-801. Definitions.**

746 As used in this part:

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

750 [~~(a)~~] (i) under which the arrested or cited individual agrees to not engage in any of the
751 following:

752 [~~(i) have personal contact with the alleged victim;~~]

753 [~~(ii) threaten or harass]~~

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

756 (B) threatening or harassing the alleged victim; or

757 [~~(iii)~~] (C) knowingly [~~enter on~~] entering onto the premises of the alleged victim's
758 residence or on premises temporarily occupied by the alleged victim; and

759 [~~(b)~~] (ii) that specifies other conditions of release from jail or arrest.

760 (b) "Jail release agreement" includes a written agreement that includes the conditions
761 described in Section (1)(a) entered into by a minor who is taken into custody or placed in
762 detention or a shelter facility under Section [78A-6-112](#).

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

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

765 [~~(i) have personal contact with the alleged victim;~~]

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

768 (ii) [~~threaten or harass~~] threatening or harassing the alleged victim; or

769 (iii) knowingly [~~enter on~~] entering onto the premises of the alleged victim's residence

770 or on premises temporarily occupied by the alleged victim; and

771 (b) specifies other conditions of release from jail.

772 (3) "Minor" means [~~an unemancipated individual who is younger than 18 years of age~~]
773 the same as that term is defined in Section 78A-6-105.

774 (4) "Offense against a child or vulnerable adult" means the commission or attempted
775 commission of an offense described in Section 76-5-109, 76-5-109.1, 76-5-110, [~~or~~] 76-5-111,
776 or 76-9-702.1.

777 (5) "Qualifying offense" means:

778 (a) domestic violence;

779 (b) an offense against a child or vulnerable adult; or

780 (c) the commission or attempted commission of an offense described in Section
781 76-9-702.1 or Title 76, Chapter 5, Part 4, Sexual Offenses.

782 Section 16. Section **78B-7-802** is amended to read:

783 **78B-7-802. Conditions for release after arrest for domestic violence and other**
784 **offenses -- Jail release agreements -- Jail release court orders.**

785 (1) Upon arrest or issuance of a citation for a qualifying offense and before the
786 individual is released on bail, recognizance, or otherwise, the individual may not [~~personally~~
787 ~~contact the alleged victim~~] telephone, contact, or otherwise communicate with the alleged
788 victim, directly or indirectly.

789 (2) (a) After an individual is arrested or issued a citation for a qualifying offense, the
790 individual may not be released before:

791 (i) the matter is submitted to a magistrate in accordance with Section 77-7-23; or

792 (ii) the individual signs a jail release agreement.

793 (b) [~~The~~] If an arrested individual is booked into jail, the arresting officer shall ensure
794 that the information presented to the magistrate includes whether the alleged victim has made a
795 waiver described in Subsection (5)(a).

796 (c) (i) If the magistrate determines there is probable cause to support the charge or
797 charges of one or more qualifying offenses, the magistrate shall determine whether the arrested
798 individual may be held without bail, in accordance with Section 77-20-1.

799 (ii) If the magistrate determines that the arrested individual has the right to be admitted
800 to bail, the magistrate shall determine:

801 (A) whether any release conditions, including electronic monitoring, are necessary to
802 protect the alleged victim; and

803 (B) any bail that is required to guarantee the arrested individual's subsequent
804 appearance in court.

805 (d) The magistrate may not release an individual arrested for a qualifying offense
806 unless the magistrate issues a jail release court order or the arrested individual signs a jail
807 release agreement.

808 (3) (a) If an individual charged with a qualifying offense fails to either schedule an
809 initial appearance or to appear at the time scheduled by the magistrate within 96 hours after the
810 time of arrest, the individual shall comply with the release conditions of a jail release
811 agreement or jail release court order until the individual makes an initial appearance.

812 (b) If the prosecutor has not filed charges against an individual who was arrested for a
813 qualifying offense and who appears in court at the time scheduled by the magistrate under
814 Subsection (2), or by the court under Subsection (3)(b)(ii), the court:

815 (i) may, upon the motion of the prosecutor and after allowing the individual an
816 opportunity to be heard on the motion, extend the release conditions described in the jail
817 release court order or the jail release agreement by no more than three court days; and

818 (ii) if the court grants the motion described in Subsection (3)(b)(i), shall order the
819 arrested individual to appear at a time scheduled before the end of the granted extension.

820 (c) (i) If the prosecutor determines that there is insufficient evidence to file charges
821 before an initial appearance scheduled under Subsection (3)(a), the prosecutor shall transmit a
822 notice of declination to either the magistrate who signed the jail release court order or, if the
823 releasing agency obtains a jail release agreement from the released arrestee, to the statewide
824 domestic violence network described in Section [78B-7-113](#).

825 (ii) A prosecutor's notice of declination transmitted under this Subsection (3)(c) is
826 considered a motion to dismiss a jail release court order and a notice of expiration of a jail
827 release agreement.

828 (4) Except as provided in [~~Subsection (3)~~] Subsections (3) and (11) or otherwise
829 ordered by a court, a jail release agreement or jail release court order expires at midnight after
830 the earlier of:

831 (a) the arrested or cited individual's initial scheduled court appearance described in

832 Subsection (3)(a);

833 (b) the day on which the prosecutor transmits the notice of the declination under

834 Subsection (3)(c); or

835 (c) 30 days after the day on which the ~~[arrested]~~ individual is arrested or issued a
836 citation.

837 (5) (a) (i) After an individual is arrested or issued a citation for a qualifying offense, an
838 alleged victim who is not a minor may waive in writing any condition of a jail release
839 agreement by:

840 (A) appearing in person to the law enforcement agency that arrested the individual or
841 issued the citation to the individual for the qualifying offense;

842 (B) appearing in person to the jail or correctional facility that released the arrested
843 individual from custody; or

844 (C) appearing in person to the clerk at the court of the jurisdiction where the charges
845 are filed.

846 ~~[(5) (a) (i) After an arrest for a qualifying offense, an]~~ (ii) An alleged victim who is not
847 a minor may waive in writing the release conditions prohibiting:

848 ~~[(A) personal contact with the alleged victim; or]~~

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

851 (B) knowingly entering on the premises of the alleged victim's residence or on
852 premises temporarily occupied by the alleged victim.

853 (iii) A parent or guardian may not, without the approval of the court, waive the release
854 conditions of the jail release agreement on behalf of an alleged victim who is a minor.

855 ~~[(iv)]~~ (iv) Upon waiver, the release conditions described in Subsection (5)(a)~~[(iv)]~~(ii) do
856 not apply to the arrested or cited individual.

857 (b) A court or magistrate may modify a jail release agreement or a jail release court
858 order in writing or on the record, and only for good cause shown.

859 (6) (a) When an ~~[arrested]~~ individual is arrested or issued a citation and subsequently
860 released in accordance with Subsection (2), the releasing agency shall:

861 (i) notify the arresting law enforcement agency of the release, conditions of release, and
862 any available information concerning the location of the alleged victim;

863 (ii) make a reasonable effort to notify the alleged victim of the release; and
864 (iii) before releasing the [~~arrested~~] individual who is arrested or issued a citation, give
865 the arrested or cited individual a copy of the jail release agreement or the jail release court
866 order.

867 (b) (i) When an individual arrested or issued a citation for domestic violence is
868 released under this section based on a jail release agreement, the releasing agency shall transmit
869 that information to the statewide domestic violence network described in Section 78B-7-113.

870 (ii) When an individual arrested or issued a citation for domestic violence is released
871 under this section based upon a jail release court order or if a jail release agreement is modified
872 under Subsection (5)(b), the court shall transmit that order to the statewide domestic violence
873 network described in Section 78B-7-113.

874 (c) This Subsection (6) does not create or increase liability of a law enforcement officer
875 or agency, and the good faith immunity provided by Section 77-36-8 is applicable.

876 (7) An individual who is arrested for a qualifying offense that is a felony and released
877 in accordance with this section may subsequently be held without bail if there is substantial
878 evidence to support a new felony charge against the individual.

879 (8) At the time an arrest is made or a citation is issued for a qualifying offense, the
880 arresting officer shall provide the alleged victim with written notice containing:

881 (a) the release conditions described in this section, and notice that the alleged
882 perpetrator will not be released, before appearing before the court with jurisdiction over the
883 offense for which the alleged perpetrator was arrested, unless:

884 (i) the alleged perpetrator enters into a jail release agreement to comply with the release
885 conditions; or

886 (ii) the magistrate issues a jail release order that specifies the release conditions;

887 (b) notification of the penalties for violation of any jail release agreement or jail release
888 court order;

889 (c) the address of the appropriate court in the district or county in which the alleged
890 victim resides;

891 (d) the availability and effect of any waiver of the release conditions; and

892 (e) information regarding the availability of and procedures for obtaining civil and
893 criminal protective orders with or without the assistance of an attorney.

894 (9) At the time an arrest is made or a citation is issued for a qualifying offense, the
895 arresting officer shall provide the alleged perpetrator with written notice containing:

896 (a) notification that the alleged perpetrator may not contact the alleged victim before
897 being released, including telephoning, contacting, or otherwise communicating with the alleged
898 victim, directly or indirectly;

899 (b) the release conditions described in this section and notice that the alleged
900 perpetrator will not be released, before appearing before the court with jurisdiction over the
901 offense for which the alleged perpetrator was arrested, unless:

902 (i) the alleged perpetrator enters into a jail release agreement to comply with the release
903 conditions; or

904 (ii) the magistrate issues a jail release court order;

905 (c) notification of the penalties for violation of any jail release agreement or jail release
906 court order; and

907 (d) notification that the alleged perpetrator is to personally appear in court on the next
908 day the court is open for business after the day of the arrest.

909 (10) (a) A pretrial or sentencing protective order issued under this part supersedes a jail
910 release agreement or jail release court order.

911 (b) If a court dismisses the charges for the qualifying offense that gave rise to a jail
912 release agreement or jail release court order, the court shall dismiss the jail release agreement
913 or jail release court order.

914 (11) (a) This section does not apply if the individual arrested for the qualifying offense
915 is a minor who is under 18 years old, unless the qualifying offense is domestic violence.

916 (b) A jail release agreement signed by, or a jail release court order issued against, a
917 minor who allegedly committed an offense described in Subsection 78A-6-114(1)(d) expires on
918 the earlier of:

919 (i) the day of the minor's initial court appearance described in Subsection (3)(a);

920 (ii) the day on which the prosecutor transmits the notice of declination under
921 Subsection (3)(c);

922 (iii) 30 days after the day on which the minor is arrested or issued a citation; or

923 (iv) the day on which the juvenile court terminates jurisdiction.

924 Section 17. Section **78B-7-803** is amended to read:

925 **78B-7-803. Pretrial protective orders.**

926 (1) (a) When [~~a~~ defendant] an alleged perpetrator is charged with a crime involving a
927 qualifying offense, the court shall, at the time of the [~~defendant's~~] alleged perpetrator's court
928 appearance under Section 77-36-2.6:

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

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

932 (b) [~~In~~] Except as provided in Subsection (4), in any criminal case, the court may,
933 during any court hearing where the [~~defendant~~] alleged perpetrator is present, issue a pretrial
934 protective order, pending trial.

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

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

939 (b) an order prohibiting the [~~defendant~~] alleged perpetrator from harassing,
940 telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

941 (c) an order removing and excluding the [~~defendant~~] alleged perpetrator from the
942 victim's residence and the premises of the residence;

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

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

948 (f) an order identifying and requiring an individual designated by the victim to
949 communicate between the [~~defendant~~] alleged perpetrator and the victim if and to the extent
950 necessary for family related matters;

951 (g) an order requiring the [~~defendant~~] alleged perpetrator to participate in an electronic
952 or other type of monitoring program; and

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

956 (3) ~~[When issuing a]~~ If the court issues a pretrial protective order, the court shall
957 determine whether to allow provisions for transfer of personal property to decrease the need for
958 contact between the parties.

959 (4) A pretrial protective order issued under this section against an alleged perpetrator
960 who is a minor charged with an offense described in Subsection 78A-6-114(1)(d) expires on
961 the earlier of:

962 (a) the day on which the court issues an order against the alleged perpetrator under
963 Section 78B-7-804 or 805 or otherwise makes a disposition of the alleged perpetrator's case
964 under Section 78A-6-117; or

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

966 Section 18. Section 78B-7-804 is amended to read:

967 **78B-7-804. Sentencing and continuous protective orders for a domestic violence**
968 **offense -- Modification -- Expiration.**

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

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

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

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

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

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

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

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

987 (3) (a) Because of the serious, unique, and highly traumatic nature of domestic violence
988 crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of
989 continued acts of violence subsequent to the release of a perpetrator who is convicted of or
990 adjudicated for domestic violence, it is the finding of the Legislature that domestic violence
991 crimes warrant the issuance of continuous protective orders under this Subsection (3) because
992 of the need to provide ongoing protection for the victim and to be consistent with the purposes
993 of protecting victims' rights under Title 77, Chapter 37, Victims' Rights, and Title 77, Chapter
994 38, Rights of Crime Victims Act, and Article I, Section 28 of the Utah Constitution.

995 (b) [Hf] Except as provided in Subsection (6), if a perpetrator is convicted of a domestic
996 violence offense resulting in a sentence of imprisonment, including jail, that is to be served
997 after conviction, the court shall issue a continuous protective order at the time of the conviction
998 or sentencing limiting the contact between the perpetrator and the victim unless the court
999 determines by clear and convincing evidence that the victim does not a have a reasonable fear
1000 of future harm or abuse.

1001 (c) (i) The court shall notify the perpetrator of the right to request a hearing.

1002 (ii) If the perpetrator requests a hearing under this Subsection (3)(c), the court shall
1003 hold the hearing at the time determined by the court. The continuous protective order shall be
1004 in effect while the hearing is being scheduled and while the hearing is pending.

1005 (d) A continuous protective order is permanent in accordance with this Subsection (3)
1006 and may include:

1007 (i) an order enjoining the perpetrator from threatening to commit or committing acts of
1008 domestic violence against the victim or other family or household member;

1009 (ii) an order prohibiting the perpetrator from harassing, telephoning, contacting, or
1010 otherwise communicating with the victim, directly or indirectly;

1011 (iii) an order prohibiting the perpetrator from going to the victim's residence, school,
1012 place of employment, and the premises of any of these, or a specified place frequented
1013 regularly by the victim or any designated family or other household member;

1014 (iv) an order directing the perpetrator to pay restitution to the victim as may apply, and
1015 shall be enforced in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act; and

1016 (v) any other order the court considers necessary to fully protect the victim and
1017 members of the victim's family or other household member.

1018 (4) A continuous protective order may be modified or dismissed only if the court
1019 determines by clear and convincing evidence that all requirements of Subsection (3) have been
1020 met and the victim does not have a reasonable fear of future harm or abuse.

1021 (5) ~~[H]~~ Except as provided in Subsection (6), in addition to the process of issuing a
1022 continuous protective order described in Subsection (3), a district court may issue a continuous
1023 protective order at any time if the victim files a petition with the court, and after notice and
1024 hearing the court finds that a continuous protective order is necessary to protect the victim.

1025 (6) (a) The court may not issue a continuous protective order under this section against
1026 a perpetrator who is a minor.

1027 (b) Unless the court sets an earlier date for expiration, a sentencing protective order
1028 issued under this section against a perpetrator who is a minor charged with an offense
1029 described in Subsection 78A-6-114(1)(d) expires on the earlier of:

1030 (i) the day on which the juvenile court terminates jurisdiction; or

1031 (ii) in accordance with Section 62A-7-506, the day on which the Division of Juvenile
1032 Justice Services discharges the perpetrator.

1033 Section 19. Section **78B-7-805** is amended to read:

1034 **78B-7-805. Sentencing protective orders and continuous protective orders for an**
1035 **offense that is not domestic violence -- Modification -- Expiration.**

1036 (1) Before a perpetrator has been convicted of or adjudicated for an offense that is not
1037 domestic violence is placed on probation, the court may consider the safety and protection of
1038 the victim and any member of the victim's family or household.

1039 (2) The court may condition probation or a plea in abeyance on the perpetrator's
1040 compliance with a sentencing protective order that includes:

1041 (a) an order enjoining the perpetrator from threatening to commit or committing acts of
1042 domestic violence against the victim or other family or household member;

1043 (b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or
1044 otherwise communicating with the victim, directly or indirectly;

1045 (c) an order requiring the perpetrator to stay away from the victim's residence, school,
1046 place of employment, and the premises of any of these, or a specified place frequented
1047 regularly by the victim or any designated family or household member;

1048 (d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm

1049 or other specified weapon;

1050 (e) an order directing the perpetrator to surrender any weapons the perpetrator owns or
1051 possesses; and

1052 (f) an order imposing any other condition necessary to protect the victim and any other
1053 designated family or household member or to rehabilitate the perpetrator.

1054 (3) (a) If a perpetrator is convicted of an offense that is not domestic violence resulting
1055 in a sentence of imprisonment that is to be served after conviction, the court may issue a
1056 continuous protective order at the time of the conviction or sentencing limiting the contact
1057 between the perpetrator and the victim if the court determines by clear and convincing evidence
1058 that the victim has a reasonable fear of future harm or abuse.

1059 (b) (i) The court shall notify the perpetrator of the right to request a hearing.

1060 (ii) If the perpetrator requests a hearing under this Subsection (3), the court shall hold
1061 the hearing at the time determined by the court and the continuous protective order shall be in
1062 effect while the hearing is being scheduled and while the hearing is pending.

1063 (c) ~~[A]~~ Except as provided in Subsection (6), a continuous protective order is
1064 permanent in accordance with this Subsection (3)(c) and may include any order described in
1065 Subsection [78B-7-804\(3\)\(c\)](#).

1066 (4) A continuous protective order issued under this section may be modified or
1067 dismissed only in accordance with Subsection [78B-7-804\(4\)](#).

1068 (5) ~~[H]~~ Except as provided in Subsection (6), in addition to the process of issuing a
1069 continuous protective order described in Subsection (3)(a), a district court may issue a
1070 continuous protective order at any time in accordance with Subsection [78B-7-804\(5\)](#).

1071 (6) (a) The court may not issue a continuous protective order under this section against
1072 a perpetrator who is a minor.

1073 (b) Unless the court sets an earlier date for expiration, a sentencing protective order
1074 issued under this section against a perpetrator who is a minor charged with an offense
1075 described in Subsection [78A-6-114\(1\)\(d\)](#) expires on the earlier of:

1076 (i) the day on which the juvenile court terminates jurisdiction; or

1077 (ii) in accordance with Section [62A-7-506](#), the day on which the Division of Juvenile
1078 Justice Services discharges the perpetrator.