

## SB0117S01 compared with SB0117

~~deleted text~~ shows text that was in SB0117 but was deleted in SB0117S01.

inserted text shows text that was not in SB0117 but was inserted into SB0117S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Todd D. Weiler proposes the following substitute bill:

### DOMESTIC VIOLENCE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Todd D. Weiler**

House Sponsor: \_\_\_\_\_

---

#### 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:

## SB0117S01 compared with SB0117

- create a grant program for domestic violence victim services;
  - 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;
- ▶ includes a lethality assessment as part of the information that may be considered as part of pretrial and presentencing processes; and
  - ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

~~{None}~~ This bill appropriates:

- ▶ to the Department of Public Safety -- Programs and Operations -- Department Intelligence Center, as a one-time appropriation:
  - from the General Fund, One-time, \$100,000; and
- ▶ to the Department of Public Safety -- Programs and Operations -- Department Intelligence Center, as an ongoing appropriation:
  - from the General Fund, \$1,702,500.

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**53-1-106**, as last amended by Laws of Utah 2021, Chapters 344, 360

**63I-1-263**, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236, 249, 274, 296, 313, 361, 362, 417, 419, and 472

**63M-7-303**, as last amended by Laws of Utah 2022, Chapter 211

**77-18-103**, as last amended by Laws of Utah 2022, Chapter 115

**77-20-202**, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4

**77-20-205**, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4

## **SB0117S01 compared with SB0117**

**77-36-2.1**, as last amended by Laws of Utah 2020, Chapter 142

**77-36-2.2**, as last amended by Laws of Utah 2022, Chapter 430

**78B-7-120**, as enacted by Laws of Utah 2021, Chapter 180

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

### ENACTS:

#### [53-1-122, Utah Code Annotated 1953](#)

---

---

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

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

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

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

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

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

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

(b) make rules to establish and clarify standards pertaining to the curriculum and teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

(c) aid in enforcement efforts to combat drug trafficking;

(d) meet with the Division of Technology Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and telecommunications operations;

(e) provide assistance to the Crime Victim Reparations Board and the Utah Office for Victims of Crime in conducting research or monitoring victims' programs, as required by Section 63M-7-505;

(f) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association;

(g) engage in emergency planning activities, including preparation of policy and procedure and rulemaking necessary for implementation of the federal Emergency Planning and Community Right to Know Act of 1986, as required by Section 53-2a-702;

(h) implement the provisions of Section 53-2a-402, the Emergency Management

## SB0117S01 compared with SB0117

Assistance Compact;

(i) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department;

(j) employ a law enforcement officer as a public safety liaison to be housed at the State Board of Education who shall work with the State Board of Education to:

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

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

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

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

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

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

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

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

Section 2. Section ~~{63I-1-263}~~53-1-122 is ~~{amended}~~enacted to read:

**53-1-122. Domestic violence advocate grant program.**

(1) As used in this section, "primary purpose domestic violence organization" means a contract provider of domestic violence services as described in Section 80-2-301.

(2) The department shall:

## **SB0117S01 compared with SB0117**

(a) establish and administer a grant program for primary purpose domestic violence organizations to increase access to domestic violence services for high-risk domestic violence victims; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish requirements, including tracking and reporting requirements, for a primary purpose domestic violence organization that receives a grant from the grant program created under Subsection (2)(a).

Section 3. Section 63I-1-263 is amended to read:

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

- (1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.
- (2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.
- (3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.
- (4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:
  - (a) Section 63A-18-102 is repealed;
  - (b) Section 63A-18-201 is repealed; and
  - (c) Section 63A-18-202 is repealed.
- (5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.
- (6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.
- (7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.
- (8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.
- (9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.
- (10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

## **SB0117S01 compared with SB0117**

- (11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.
- (12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.
- (13) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.
- (14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.
- (15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.
- (16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.
- (17) Subsection 63J-1-602.1(17), relating to the Nurse Home Visiting Restricted Account, is repealed July 1, 2026.
- (18) Subsection 63J-1-602.2(6), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.
- (19) Subsection 63J-1-602.2(7), referring to the Trip Reduction Program, is repealed July 1, 2022.
- (20) Subsection 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.
- (21) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.
- (22) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:
  - (a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;
  - (b) Section 63M-7-305, the language that states "council" is replaced with "commission";
  - (c) Subsection 63M-7-305(1)(a) is repealed and replaced with:
    - "(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and
  - (d) Subsection 63M-7-305(2) is repealed and replaced with:
    - "(2) The commission shall:
      - (a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

## **SB0117S01 compared with SB0117**

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

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

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

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

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

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

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

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

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

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

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

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

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

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

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

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

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

(32) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section ~~3}4~~. Section **63M-7-303** is amended to read:

## SB0117S01 compared with SB0117

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

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

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

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

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

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

(e) coordinate recommendations made by any committee created under Section 63M-7-302;

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

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

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

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

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

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

Section ~~{4}~~5. Section **77-18-103** is amended to read:

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

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

(a) upon agreement of the defendant, continue the date for the imposition of the sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or a law enforcement agency, or information from any



## SB0117S01 compared with SB0117

other source about the defendant; and

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

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

(a) any impact statement provided by a victim as described in Subsection 77-38b-203(3)(c);

(b) any results of a lethality assessment completed in accordance with Section 77-36-2.1;

~~(b)~~ (c) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);

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

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

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

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

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

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

(B) the court may grant an additional 10 working days after the day on which the alleged inaccuracy is brought to the court's attention to allow the parties and the department to resolve the alleged inaccuracy in the presentence investigation report.

(ii) If the court does not grant additional time under Subsection (4)(a)(i)(B), or the

## **SB0117S01 compared with SB0117**

alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is an inaccuracy in the presentence investigation report, the court shall:

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

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

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

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

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

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

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

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

(a) ordered by the court in accordance with Subsection 63G-2-202(7);

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

(c) requested by the board;

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

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

(i) statements or materials provided by the victim;

(ii) the circumstances of the offense, including statements by the defendant; or

(iii) the impact of the offense on the victim or the victim's household; or

## SB0117S01 compared with SB0117

(f) requested by a sex offender treatment provider:

(i) who is certified to provide treatment under the certification program established in Subsection 64-13-25(3);

(ii) who is providing, at the time of the request, sex offender treatment to the offender who is the subject of the presentence investigation report; and

(iii) who provides written assurance to the department that the report:

(A) is necessary for the treatment of the defendant;

(B) will be used solely for the treatment of the defendant; and

(C) will not be disclosed to an individual or entity other than the defendant.

(8) (a) At the time of sentence, the court shall receive any testimony, evidence, or information that the defendant or the prosecuting attorney desires to present concerning the appropriate sentence.

(b) Testimony, evidence, or information under Subsection (8)(a) shall be presented in open court on record and in the presence of the defendant.

Section ~~5~~6. Section **77-20-202** is amended to read:

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

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

(a) identification information for the individual, including:

(i) the individual's legal name and any known aliases;

(ii) the individual's date of birth;

(iii) the individual's state identification number;

(iv) the individual's mobile phone number; and

(v) the individual's email address;

(b) the individual's residential address;

(c) any pending criminal charge or warrant for the individual, including the offense tracking number of the current offense for which the individual is booked;

(d) the individual's probation or parole supervision status;

(e) whether the individual was on pretrial release for another criminal offense prior to

## SB0117S01 compared with SB0117

the booking of the individual for the current criminal offense;

(f) the individual's financial circumstances to the best of the individual's knowledge at the time of booking, including:

(i) the individual's current employer;

(ii) the individual's monthly income, including any alimony or child support that contributes to the individual's monthly income;

(iii) the individual's monthly expenses, including any alimony or child support obligation that the individual is responsible for paying;

(iv) the individual's ownership of, or any interest in, personal or real property, including any savings or checking accounts or cash;

(v) the number, ages, and relationships of any dependents;

(vi) any financial support or benefit that the individual receives from a state or federal government; and

(vii) any other information about the individual's financial circumstances that may be relevant; ~~and~~

(g) any ties the individual has to the community, including:

(i) the length of time that the individual has been at the individual's residential address;

(ii) any enrollment in a local college, university, or trade school; and

(iii) the name and contact information for any family member or friend that the individual believes would be willing to provide supervision of the individual[-]; and

(h) the results of a lethality assessment completed in accordance with Section 77-36-2.1, if any.

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

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

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

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

## **SB0117S01 compared with SB0117**

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

Section ~~67~~7. Section **77-20-205** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(b) In making a determination under Subsection (2)(a), the magistrate or judge may not

## **SB0117S01 compared with SB0117**

give any deference to a magistrate's decision in a temporary pretrial status order.

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

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

(ii) if a party requests a delay; or

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

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

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

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

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

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

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

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

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

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

(c) avoid contact with a witness who:

(i) may testify concerning the alleged offense; and

(ii) is named in the pretrial status order;

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

(e) submit to drug or alcohol testing;

(f) complete a substance abuse evaluation and comply with any recommended

## **SB0117S01 compared with SB0117**

treatment or release program;

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

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

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

(j) maintain or commence an education program;

(k) comply with limitations on where the individual is allowed to be located or the times that the individual shall be, or may not be, at a specified location;

(l) comply with specified restrictions on personal associations, place of residence, or travel;

(m) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;

(n) comply with a specified curfew;

(o) forfeit or refrain from possession of a firearm or other dangerous weapon;

(p) if the individual is charged with an offense against a child, limit or prohibit access to any location or occupation where children are located, including any residence where children are on the premises, activities where children are involved, locations where children congregate, or where a reasonable person would know that children congregate;

(q) comply with requirements for house arrest;

(r) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;

(s) remain in custody of one or more designated individuals who agree to:

(i) supervise and report on the behavior and activities of the individual; and

(ii) encourage compliance with all court orders and attendance at all required court proceedings;

(t) comply with a financial condition; or

(u) comply with any other condition that is reasonably available and necessary to ensure compliance with Subsection (3).

(5) (a) If a county or municipality has established a pretrial services program, the magistrate or judge shall consider the services that the county or municipality has identified as available in determining what conditions of release to impose.

## SB0117S01 compared with SB0117

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

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

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

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

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

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

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

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

(a) rely upon information contained in:

(i) the indictment or information;

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

(iii) a pretrial risk assessment;

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

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

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

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

(b) consider:

(i) the nature and circumstances of the offense, or offenses, that the individual was



## SB0117S01 compared with SB0117

arrested for, or charged with, including:

- (A) whether the offense is a violent offense; and
- (B) the vulnerability of a witness or alleged victim;
- (ii) the nature and circumstances of the individual, including the individual's:
  - (A) character;
  - (B) physical and mental health;
  - (C) family and community ties;
  - (D) employment status or history;
  - (E) financial resources;
  - (F) past criminal conduct;
  - (G) history of drug or alcohol abuse; and
  - (H) history of timely appearances at required court proceedings;
- (iii) the potential danger to another individual, or individuals, posed by the release of the individual;
- (iv) whether the individual was on probation, parole, or release pending an upcoming court proceeding at the time the individual allegedly committed the offense or offenses;
- (v) the availability of:
  - (A) other individuals who agree to assist the individual in attending court when required; or
  - (B) supervision of the individual in the individual's community;
- (vi) the eligibility and willingness of the individual to participate in various treatment programs, including drug treatment; or
- (vii) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.
- (8) An individual arrested for violation of a jail release agreement, or a jail release court order, issued in accordance with Section 78B-7-802:
  - (a) may not be released before the individual's first appearance before a magistrate or judge; and
  - (b) may be denied pretrial release by the magistrate or judge under Subsection (2).

Section ~~77-36-2.1~~8. Section **77-36-2.1** is amended to read:

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

## SB0117S01 compared with SB0117

### assessments.

(1) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(e)]~~ (v) arrange, facilitate, or provide for the victim and any child to obtain medical

## SB0117S01 compared with SB0117

treatment; and

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

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

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

(b) The written notice shall also include:

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

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

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

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

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

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

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

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

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

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

(f) if the aggressor is violently or constantly jealous, or controls most of the daily

## **SB0117S01 compared with SB0117**

activities of the victim;

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

(h) if the aggressor is unemployed;

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) If a law enforcement officer is not reasonably able to submit the results of a

## SB0117S01 compared with SB0117

lethality assessment while on scene, the law enforcement officer shall submit the results of the lethality assessment to the Department of Public Safety as soon as practicable.

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

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

(10) The Department of Public Safety shall:

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

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

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

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

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

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

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

Section ~~8~~9. Section 77-36-2.2 is amended to read:

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

(1) The primary duty of law enforcement officers responding to a domestic violence call is to protect the victim and enforce the law.

(2) (a) In addition to the arrest powers described in Section 77-7-2, when a peace

## **SB0117S01 compared with SB0117**

officer responds to a domestic violence call and has probable cause to believe that an act of domestic violence has been committed, the peace officer shall arrest without a warrant or shall issue a citation to any person that the peace officer has probable cause to believe has committed an act of domestic violence.

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

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

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

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

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

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

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

## SB0117S01 compared with SB0117

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

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

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

(ii) the results of any lethality assessment completed in accordance with Section 77-36-2.1.

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

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

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

(iii) whether or not an arrest was made.

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

(i) shall be reported monthly to the department;

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

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

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

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

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

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

Section ~~9~~10. Section **78B-7-120** is amended to read:

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

## **SB0117S01 compared with SB0117**

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

- (a) recognizing the symptoms of domestic violence and trauma;
- (b) an evidence-based assessment to identify victims of domestic violence who may be at a high risk of being killed by a perpetrator;
- (c) lethality assessment protocols and interviewing techniques, including indicators of strangulation;
- (d) responding to the needs and concerns of a victim of domestic violence;
- (e) delivering services to victims of domestic violence in a compassionate, sensitive, and professional manner; and
- (f) understanding cultural perceptions and common myths of domestic violence.

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

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

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

- (a) response to domestic violence incidents, including trauma-informed and victim-centered interview techniques;
- (b) lethality assessment protocols which have been demonstrated to minimize retraumatizing victims; and
- (c) standards for report writing.

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

- (a) lethality assessments;
- (b) the prevalence of stalking;
- (c) strangulation;
- (d) violence in the presence of children; and



## SB0117S01 compared with SB0117

(e) threats of suicide or homicide.

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

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

Section ~~{10}~~11. Section **78B-7-803** is amended to read:

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

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

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

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

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

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

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

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

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

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

## SB0117S01 compared with SB0117

and the premises of the residence;

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

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

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

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

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

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

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

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

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

### Section 12. Appropriation.

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

### ITEM 1

To Department of Public Safety -- Programs and Operations

**SB0117S01 compared with SB0117**

From General Fund, One-time 100,000

Schedule of Programs:

Department Intelligence Center 100,000

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

ITEM 2

To Department of Public Safety -- Programs and Operations

From General Fund 1,702,500

Schedule of Programs:

Department Intelligence Center 1,702,500

The Legislature intends that:

(1) the Department of Public Safety use \$1,205,000 of the appropriations provided under this item to develop, administer, and maintain lethality assessment tools and services;

(2) the Department of Public Safety use \$497,500 of the appropriations provided under this item to award grants for domestic violence services under Section 53-1-122; and

(3) under Section 63J-1-603, the appropriation under this item not lapse at the close of fiscal year 2024 and the use of any nonlapsing funds is limited to the purposes described in Subsections (1) and (2) of this item.