

**PROTECTION OF ANIMALS AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Angela Romero**

Senate Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill concerns protections for an animal under circumstances of domestic violence and stalking.

**Highlighted Provisions:**

This bill:

- ▶ defines "household animal";
- ▶ modifies the definition of "emotional distress" related to the offense of stalking to include suffering resulting from harm to an animal;
- ▶ requires the Administrative Office of the Courts to include a space to indicate a request for protection of an animal on certain protective order forms;
- ▶ allows the court to, when issuing certain protective orders, enjoin the respondent from injuring, threatening to injure, or taking possession of certain animals; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**76-5-106.5**, as last amended by Laws of Utah 2020, Chapter 142



- 28            **78B-7-102**, as last amended by Laws of Utah 2021, Chapter 262
- 29            **78B-7-105**, as last amended by Laws of Utah 2021, Chapter 159
- 30            **78B-7-404**, as last amended by Laws of Utah 2020, Chapter 142
- 31            **78B-7-603**, as last amended by Laws of Utah 2021, Chapters 159 and 262

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

34            Section 1. Section **76-5-106.5** is amended to read:

35            **76-5-106.5. Stalking -- Definitions -- Injunction -- Penalties -- Duties of law**  
36 **enforcement officer.**

37            (1) As used in this section:

38            (a) "Course of conduct" means two or more acts directed at or toward a specific person,  
39 including:

40            (i) acts in which the actor follows, monitors, observes, photographs, surveils, threatens,  
41 or communicates to or about a person, or interferes with a person's property:

42            (A) directly, indirectly, or through any third party; and

43            (B) by any action, method, device, or means; or

44            (ii) when the actor engages in any of the following acts or causes someone else to  
45 engage in any of these acts:

46            (A) approaches or confronts a person;

47            (B) appears at the person's workplace or contacts the person's employer or coworkers;

48            (C) appears at a person's residence or contacts a person's neighbors, or enters property  
49 owned, leased, or occupied by a person;

50            (D) sends material by any means to the person or for the purpose of obtaining or  
51 disseminating information about or communicating with the person to a member of the person's  
52 family or household, employer, coworker, friend, or associate of the person;

53            (E) places an object on or delivers an object to property owned, leased, or occupied by  
54 a person, or to the person's place of employment with the intent that the object be delivered to  
55 the person; or

56            (F) uses a computer, the Internet, text messaging, or any other electronic means to  
57 commit an act that is a part of the course of conduct.

58            (b) (i) "Emotional distress" means significant mental or psychological suffering,

59 whether or not medical or other professional treatment or counseling is required.

60 (ii) "Emotional distress" includes significant mental or psychological suffering  
61 resulting from harm to an animal.

62 (c) "Immediate family" means a spouse, parent, child, sibling, or any other person who  
63 regularly resides in the household or who regularly resided in the household within the prior six  
64 months.

65 (d) "Reasonable person" means a reasonable person in the victim's circumstances.

66 (e) "Stalking" means an offense as described in Subsection (2) or (3).

67 (f) "Text messaging" means a communication in the form of electronic text or one or  
68 more electronic images sent by the actor from a telephone or computer to another person's  
69 telephone or computer by addressing the communication to the recipient's telephone number.

70 (2) A person is guilty of stalking who intentionally or knowingly engages in a course of  
71 conduct directed at a specific person and knows or should know that the course of conduct  
72 would cause a reasonable person:

73 (a) to fear for the person's own safety or the safety of a third person; or

74 (b) to suffer other emotional distress.

75 (3) A person is guilty of stalking who intentionally or knowingly violates:

76 (a) a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking  
77 Injunctions; or

78 (b) a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9,  
79 Criminal Stalking Injunctions.

80 (4) In any prosecution under this section, it is not a defense that the actor:

81 (a) was not given actual notice that the course of conduct was unwanted; or

82 (b) did not intend to cause the victim fear or other emotional distress.

83 (5) An offense of stalking may be prosecuted under this section in any jurisdiction  
84 where one or more of the acts that is part of the course of conduct was initiated or caused an  
85 effect on the victim.

86 (6) Stalking is a class A misdemeanor:

87 (a) upon the offender's first violation of Subsection (2); or

88 (b) if the offender violated a stalking injunction issued under Title 78B, Chapter 7, Part  
89 7, Civil Stalking Injunctions.

90 (7) Stalking is a third degree felony if the offender:  
91 (a) has been previously convicted of an offense of stalking;  
92 (b) has been previously convicted in another jurisdiction of an offense that is  
93 substantially similar to the offense of stalking;  
94 (c) has been previously convicted of any felony offense in Utah or of any crime in  
95 another jurisdiction which if committed in Utah would be a felony, in which the victim of the  
96 stalking offense or a member of the victim's immediate family was also a victim of the  
97 previous felony offense;  
98 (d) violated a permanent criminal stalking injunction issued under Title 78B, Chapter  
99 7, Part 9, Criminal Stalking Injunctions; or  
100 (e) has been or is at the time of the offense a cohabitant, as defined in Section  
101 78B-7-102, of the victim.

102 (8) Stalking is a second degree felony if the offender:  
103 (a) used a dangerous weapon as defined in Section 76-1-601 or used other means or  
104 force likely to produce death or serious bodily injury, in the commission of the crime of  
105 stalking;  
106 (b) has been previously convicted two or more times of the offense of stalking;  
107 (c) has been convicted two or more times in another jurisdiction or jurisdictions of  
108 offenses that are substantially similar to the offense of stalking;  
109 (d) has been convicted two or more times, in any combination, of offenses under  
110 Subsection (7)(a), (b), or (c);  
111 (e) has been previously convicted two or more times of felony offenses in Utah or of  
112 crimes in another jurisdiction or jurisdictions which, if committed in Utah, would be felonies,  
113 in which the victim of the stalking was also a victim of the previous felony offenses; or  
114 (f) has been previously convicted of an offense under Subsection (7)(d) or (e).

115 (9) (a) A permanent criminal stalking injunction limiting the contact between the  
116 defendant and victim may be filed in accordance with Section 78B-7-902.  
117 (b) This section does not preclude the filing of criminal information for stalking based  
118 on the same act which is the basis for the violation of the stalking injunction issued under Title  
119 78B, Chapter 7, Part 7, Civil Stalking Injunctions, or a permanent criminal stalking injunction  
120 issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

121 (10) (a) A law enforcement officer who responds to an allegation of stalking shall use  
122 all reasonable means to protect the victim and prevent further violence, including:

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

125 (ii) confiscating the weapon or weapons involved in the alleged stalking;

126 (iii) making arrangements for the victim and any child to obtain emergency housing or  
127 shelter;

128 (iv) providing protection while the victim removes essential personal effects;

129 (v) arranging, facilitating, or providing for the victim and any child to obtain medical  
130 treatment; and

131 (vi) arranging, facilitating, or providing the victim with immediate and adequate notice  
132 of the rights of victims and of the remedies and services available to victims of stalking, in  
133 accordance with Subsection (10)(b).

134 (b) (i) A law enforcement officer shall give written notice to the victim in simple  
135 language, describing the rights and remedies available under this section and Title 78B,  
136 Chapter 7, Part 7, Civil Stalking Injunctions.

137 (ii) The written notice shall also include:

138 (A) a statement that the forms needed in order to obtain a stalking injunction are  
139 available from the court clerk's office in the judicial district where the victim resides or is  
140 temporarily domiciled; and

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

143 (c) If a weapon is confiscated under this Subsection (10), the law enforcement agency  
144 shall return the weapon to the individual from whom the weapon is confiscated if a stalking  
145 injunction is not issued or once the stalking injunction is terminated.

146 Section 2. Section **78B-7-102** is amended to read:

147 **78B-7-102. Definitions.**

148 As used in this chapter:

149 (1) "Abuse" means, except as provided in Section [78B-7-201](#), intentionally or  
150 knowingly causing or attempting to cause another individual physical harm or intentionally or  
151 knowingly placing another individual in reasonable fear of imminent physical harm.

- 152 (2) "Affinity" means the same as that term is defined in Section 76-1-601.
- 153 (3) "Civil protective order" means an order issued, subsequent to a hearing on the
- 154 petition, of which the petitioner and respondent have been given notice, under:
  - 155 (a) Part 2, Child Protective Orders;
  - 156 (b) Part 4, Dating Violence Protective Orders;
  - 157 (c) Part 5, Sexual Violence Protective Orders; or
  - 158 (d) Part 6, Cohabitant Abuse Protective Orders.
- 159 (4) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil
- 160 Stalking Injunctions.
- 161 (5) (a) "Cohabitant" means an emancipated individual under Section 15-2-1 or an
- 162 individual who is 16 years old or older who:
  - 163 (i) is or was a spouse of the other party;
  - 164 (ii) is or was living as if a spouse of the other party;
  - 165 (iii) is related by blood or marriage to the other party as the individual's parent,
  - 166 grandparent, sibling, or any other individual related to the individual by consanguinity or
  - 167 affinity to the second degree;
  - 168 (iv) has or had one or more children in common with the other party;
  - 169 (v) is the biological parent of the other party's unborn child;
  - 170 (vi) resides or has resided in the same residence as the other party; or
  - 171 (vii) is or was in a consensual sexual relationship with the other party.
- 172 (b) "Cohabitant" does not include:
  - 173 (i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or
  - 174 (ii) the relationship between natural, adoptive, step, or foster siblings who are under 18
  - 175 years old.
- 176 (6) "Consanguinity" means the same as that term is defined in Section 76-1-601.
- 177 (7) "Criminal protective order" means an order issued under Part 8, Criminal Protective
- 178 Orders.
- 179 (8) "Criminal stalking injunction" means a stalking injunction issued under Part 9,
- 180 Criminal Stalking Injunctions.
- 181 (9) "Court clerk" means a district court clerk.
- 182 (10) (a) "Dating partner" means an individual who:

183 (i) (A) is an emancipated individual under Section 15-2-1 or Title 80, Chapter 7,  
184 Emancipation; or

185 (B) is 18 years old or older; and

186 (ii) is, or has been, in a dating relationship with the other party.

187 (b) "Dating partner" does not include an intimate partner.

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

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

193 (c) In determining, based on a totality of the circumstances, whether a dating  
194 relationship exists:

195 (i) all relevant factors shall be considered, including:

196 (A) whether the parties developed interpersonal bonding above a mere casual  
197 fraternization;

198 (B) the length of the parties' relationship;

199 (C) the nature and the frequency of the parties' interactions, including communications  
200 indicating that the parties intended to begin a dating relationship;

201 (D) the ongoing expectations of the parties, individual or jointly, with respect to the  
202 relationship;

203 (E) whether, by statement or conduct, the parties demonstrated an affirmation of their  
204 relationship to others; and

205 (F) whether other reasons exist that support or detract from a finding that a dating  
206 relationship exists; and

207 (ii) it is not necessary that all, or a particular number, of the factors described in  
208 Subsection (11)(c)(i) are found to support the existence of a dating relationship.

209 (12) "Domestic violence" means the same as that term is defined in Section 77-36-1.

210 (13) "Ex parte civil protective order" means an order issued without notice to the  
211 respondent under:

212 (a) Part 2, Child Protective Orders;

213 (b) Part 4, Dating Violence Protective Orders;

214 (c) Part 5, Sexual Violence Protective Orders; or

215 (d) Part 6, Cohabitant Abuse Protective Orders.

216 (14) "Ex parte civil stalking injunction" means a stalking injunction issued without  
217 notice to the respondent under Part 7, Civil Stalking Injunctions.

218 (15) "Foreign protection order" means the same as that term is defined in Section  
219 78B-7-302.

220 (16) "Household animal" means an animal that is tamed or kept as a pet or on a farm.

221 [~~16~~] (17) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec.  
222 921.

223 [~~17~~] (18) "Law enforcement unit" or "law enforcement agency" means any public  
224 agency having general police power and charged with making arrests in connection with  
225 enforcement of the criminal statutes and ordinances of this state or any political subdivision.

226 [~~18~~] (19) "Peace officer" means those individuals specified in Title 53, Chapter 13,  
227 Peace Officer Classifications.

228 [~~19~~] (20) "Qualifying domestic violence offense" means the same as that term is  
229 defined in Section 77-36-1.1.

230 [~~20~~] (21) "Respondent" means the individual against whom enforcement of a  
231 protective order is sought.

232 [~~21~~] (22) "Stalking" means the same as that term is defined in Section 76-5-106.5.  
233 Section 3. Section 78B-7-105 is amended to read:

234 **78B-7-105. Forms for petitions, civil protective orders, and civil stalking**  
235 **injunctions -- Assistance -- Fees.**

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

238 (i) an ex parte civil protective order;

239 (ii) a civil protective order;

240 (iii) an ex parte stalking injunction; or

241 (iv) a civil stalking injunction.

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

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



245 and

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

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

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

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

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

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

259 (iv) a space for information the petitioner is able to provide related to a proceeding for  
260 a civil protective order or a criminal protective order, civil litigation, a proceeding in juvenile  
261 court, or a criminal case involving either party, including the case name, file number, the  
262 county and state of the proceeding, and the judge's name;

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

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

266 (b) for a petition under Part 4, Dating Violence Protective Orders, a space to indicate  
267 whether an order under Subsection 78B-7-404(2)(e) or (f) regarding a household animal is  
268 requested; and

269 ~~(b)~~ (c) for a petition under Part 6, Cohabitant Abuse Protective Orders:

270 (i) a separate portion of the form for those provisions, the violation of which is a  
271 criminal offense, and a separate portion for those provisions, the violation of which is a civil  
272 violation;

273 (ii) a statement advising the petitioner that when a child is included in an ex parte  
274 protective order or a protective order, as part of either the criminal or the civil portion of the  
275 order, the petitioner may provide a copy of the order to the principal of the school that the child

276 attends; [~~and~~]

277 (iii) a statement advising the petitioner that if the respondent fails to return custody of a  
278 minor child to the petitioner as ordered in a protective order, the petitioner may obtain from the  
279 court a writ of assistance[-]; and

280 (iv) a space to indicate whether an order under Subsection [78B-7-603\(2\)\(k\)](#) or (l)  
281 regarding a household animal is requested.

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

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

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

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

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

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

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

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

297 (a) filing a petition under this chapter;

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

299 (c) obtaining copies, either certified or uncertified, necessary for service or delivery to  
300 law enforcement officials; or

301 (d) fees for service of:

302 (i) a petition under this chapter;

303 (ii) an ex parte civil protective order;

304 (iii) a civil protective order;

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

306 (v) a civil stalking injunction.

307 (5) A petition for an ex parte civil protective order and a civil protective order shall be  
308 in writing and verified.

309 (6) (a) The protective orders and stalking injunctions described in Subsection (1)(a)  
310 shall be issued in the form adopted by the Administrative Office of the Courts under  
311 Subsection (1)(b).

312 (b) A civil protective order that is issued shall, if applicable, include the following  
313 language:

314 "Respondent was afforded both notice and opportunity to be heard in the hearing that  
315 gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322,  
316 108 Stat. 1796, 18 U.S.C. Sec. 2265, this order is valid in all the United States, the District of  
317 Columbia, tribal lands, and United States territories. This order complies with the Uniform  
318 Interstate Enforcement of Domestic Violence Protection Orders Act."

319 (c) An ex parte civil protective order and a civil protective order issued under Part 6,  
320 Cohabitant Abuse Protective Orders, shall include the following language:

321 "NOTICE TO PETITIONER: The court may amend or dismiss a protective order after  
322 one year if it finds that the basis for the issuance of the protective order no longer exists and the  
323 petitioner has repeatedly acted in contravention of the protective order provisions to  
324 intentionally or knowingly induce the respondent to violate the protective order, demonstrating  
325 to the court that the petitioner no longer has a reasonable fear of the respondent."

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

327 (i) the date the order expires; and

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

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

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

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

337 "Attention: This is an official court order. If you disobey this order, the court may find

338 you in contempt. You may also be arrested and prosecuted for the crime of stalking and any  
339 other crime you may have committed in disobeying this order."

340 Section 4. Section **78B-7-404** is amended to read:

341 **78B-7-404. Dating violence protective orders -- Ex parte dating violence**  
342 **protective orders -- Modification of orders -- Service of process -- Duties of the court.**

343 (1) If it appears from a petition for a protective order or a petition to modify an existing  
344 protective order that a dating partner of the petitioner has abused or committed dating violence  
345 against the petitioner, the court may:

346 (a) without notice, immediately issue an ex parte dating violence protective order  
347 against the dating partner or modify an existing dating protective order ex parte if necessary to  
348 protect the petitioner and all parties named in the petition; or

349 (b) upon notice to the respondent, issue a dating violence protective order or modify a  
350 dating violence protective order after a hearing, regardless of whether the respondent appears.

351 (2) A court may grant the following relief without notice in a dating violence protective  
352 order or a modification issued ex parte:

353 (a) prohibit the respondent from threatening to commit or committing dating violence  
354 or abuse against the petitioner and any designated family or household member described in the  
355 protective order;

356 (b) prohibit the respondent from telephoning, contacting, or otherwise communicating  
357 with the petitioner or any designated family or household member, directly or indirectly;

358 (c) order that the respondent:

359 (i) is excluded and shall stay away from the petitioner's residence and its premises;

360 (ii) except as provided in Subsection (4), stay away from the petitioner's:

361 (A) school and the school's premises; and

362 (B) place of employment and its premises; and

363 (iii) stay away from any specified place frequented by the petitioner or any designated  
364 family or household member;

365 (d) prohibit the respondent from being within a specified distance of the petitioner;

366 [and]

367 (e) prohibit the respondent from physically injuring, threatening to injure, or taking

368 possession of a household animal that is owned or kept by the petitioner;

369 (f) prohibit the respondent from physically injuring or threatening to injure a household  
370 animal that is owned or kept by the respondent; and

371 ~~(f)~~ (g) order any further relief that the court considers necessary to provide for the  
372 safety and welfare of the petitioner and any designated family or household member.

373 (3) A court may grant the following relief in a dating violence protective order or a  
374 modification of a dating violence protective order, after notice and a hearing, regardless of  
375 whether the respondent appears:

376 (a) the relief described in Subsection (2); and

377 (b) except as provided in Subsection (5), upon finding that the respondent's use or  
378 possession of a weapon poses a serious threat of harm to the petitioner or any designated family  
379 or household member, prohibit the respondent from purchasing, using, or possessing a weapon  
380 specified by the court.

381 (4) If the petitioner or a family or household member designated in the protective order  
382 attends the same school as the respondent, or is employed at the same place of employment as  
383 the respondent, the district court:

384 (a) may not enter an order under Subsection (2)(c)(ii) that excludes the respondent  
385 from the respondent's school or place of employment; and

386 (b) may enter an order governing the respondent's conduct at the respondent's school or  
387 place of employment.

388 (5) The court may not prohibit the respondent from possessing a firearm:

389 (a) if the respondent has not been given notice of the petition for a protective order and  
390 an opportunity to be heard; and

391 (b) unless the petition establishes:

392 (i) by a preponderance of the evidence that the respondent has committed abuse or  
393 dating violence against the petitioner; and

394 (ii) by clear and convincing evidence that the respondent's use or possession of a  
395 firearm poses a serious threat of harm to petitioner or the designated family or household  
396 member.

397 (6) After the court issues a dating violence protective order, the court shall:

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

399 (b) make reasonable efforts at the hearing to ensure that the dating violence protective

400 order is understood by the petitioner and the respondent, if present;

401 (c) transmit electronically, by the end of the business day after the day on which the  
402 order is issued, a copy of the dating violence protective order to the local law enforcement  
403 agency designated by the petitioner; and

404 (d) transmit a copy of the protective order issued under this part in the same manner as  
405 described in Section 78B-7-113.

406 (7) (a) The county sheriff that receives the order from the court, under Subsection  
407 (6)(a), shall:

408 (i) provide expedited service for protective orders issued in accordance with this part;  
409 and

410 (ii) after the order has been served, transmit verification of service of process to the  
411 statewide network described in Section 78B-7-113.

412 (b) This section does not prohibit another law enforcement agency from providing  
413 service of process if that law enforcement agency:

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

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

418 (8) When a protective order is served on a respondent in jail, or other holding facility,  
419 the law enforcement agency managing the facility shall make a reasonable effort to provide  
420 notice to the petitioner at the time the respondent is released from incarceration.

421 (9) A court may modify or vacate a protective order under this part after notice and  
422 hearing, if the petitioner:

423 (a) is personally served with notice of the hearing, as provided in the Utah Rules of  
424 Civil Procedure, and appears before the court to give specific consent to the modification or  
425 vacation of the provisions of the protective order; or

426 (b) submits an affidavit agreeing to the modification or vacation of the provisions of  
427 the protective order.

428 Section 5. Section 78B-7-603 is amended to read:

429 **78B-7-603. Cohabitant abuse protective orders -- Ex parte cohabitant abuse**  
430 **protective orders -- Modification of orders -- Service of process -- Duties of the court.**

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

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

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

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

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

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

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

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

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

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

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

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

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

460 (e) if the petitioner or designated family or household member attends the same school  
461 as the respondent, is employed at the same place of employment as the respondent, or attends

462 the same place of worship, the court:

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

465 (ii) may enter an order governing the respondent's conduct at the respondent's school,  
466 place of employment, or place of worship;

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

470 (g) order possession and use of an automobile and other essential personal effects, and  
471 direct the appropriate law enforcement officer to accompany the petitioner to the residence of  
472 the parties to ensure that the petitioner is safely restored to possession of the residence,  
473 automobile, and other essential personal effects, or to supervise the petitioner's or respondent's  
474 removal of personal belongings;

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

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

478 (j) order the appointment of an attorney guardian ad litem under Sections [78A-2-703](#)  
479 and [78A-2-803](#);

480 (k) prohibit the respondent from physically injuring, threatening to injure, or taking  
481 possession of a household animal that is owned or kept by the petitioner;

482 (l) prohibit the respondent from physically injuring or threatening to injure a household  
483 animal that is owned or kept by the respondent;

484 [~~k~~] (m) order any further relief that the court considers necessary to provide for the  
485 safety and welfare of the petitioner and any designated family or household member; and

486 [~~h~~] (n) if the petition requests child support or spousal support, at the hearing on the  
487 petition order both parties to provide verification of current income, including year-to-date pay  
488 stubs or employer statements of year-to-date or other period of earnings, as specified by the  
489 court, and complete copies of tax returns from at least the most recent year.

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

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



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

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

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

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

500 (b) make reasonable efforts to ensure that the cohabitant abuse protective order is  
501 understood by the petitioner, and the respondent, if present;

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

505 (d) transmit a copy of the order to the statewide domestic violence network described  
506 in Section 78B-7-113; and

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

511 (i) an agency record identifier;

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

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

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

517 (6) Each protective order shall include two separate portions, one for provisions, the  
518 violation of which are criminal offenses, and one for provisions, the violation of which are civil  
519 offenses, as follows:

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

522 (b) civil offenses are those under Subsections (2)(h) through (l), Subsection (3)(a) as it  
523 refers to Subsections (2)(h) through (l), and Subsection (3)(b).

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

528 (8) (a) The county sheriff that receives the order from the court, under Subsection (5),  
529 shall provide expedited service for protective orders issued in accordance with this part, and  
530 shall transmit verification of service of process, when the order has been served, to the  
531 statewide domestic violence network described in Section [78B-7-113](#).

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

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

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

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

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

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

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

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

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

555 (12) A civil provision of a protective order described in Subsection (6) may be  
556 dismissed or modified at any time in a divorce, parentage, custody, or guardianship proceeding  
557 that is pending between the parties to the protective order action if:

558 (a) the parties stipulate in writing or on the record to dismiss or modify a civil  
559 provision of the protective order; or

560 (b) the court in the divorce, parentage, custody, or guardianship proceeding finds good  
561 cause to dismiss or modify the civil provision.