

1                   **DOMESTIC VIOLENCE AND DATING VIOLENCE**

2                                   **AMENDMENTS**

3   2011 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Paul Ray**

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

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8 **LONG TITLE**

9 **General Description:**

10           This bill provides for the issuance, modification, and enforcement of protective orders  
11 between certain individuals who are, or have been, in a dating relationship.

12 **Highlighted Provisions:**

13           This bill:

- 14           ▶ defines terms;
- 15           ▶ provides for the issuance, modification, and enforcement of protective orders  
16 between parties who are, or have been, in a dating relationship when:
- 17           • the parties are emancipated or 18 years of age or older;
  - 18           • the parties are, or have been, in a dating relationship with each other; and
  - 19           • a party commits abuse or dating violence against the other party;
- 20           ▶ requires the Administrative Office of the Courts to develop and adopt uniform  
21 forms for petitions and orders for protection relating to dating violence;
- 22           ▶ describes the restrictions that a court may include in a protective order;
- 23           ▶ describes the conditions that may be placed on an alleged perpetrator of dating  
24 violence:
- 25           • in a protective order;
  - 26           • in an order of probation for violation of a protective order relating to dating  
27 violence; or



- 28           • as a condition of release prior to trial for violation of a protective order relating
- 29 to dating violence; and
- 30           ▸ makes technical changes.

31 **Money Appropriated in this Bill:**

32           None

33 **Other Special Clauses:**

34           This bill takes effect on September 1, 2011.

35 **Utah Code Sections Affected:**

36 AMENDS:

- 37           **30-3-3**, as last amended by Laws of Utah 2008, Chapter 3
- 38           **30-3-32**, as last amended by Laws of Utah 2008, Chapters 3 and 146
- 39           **53-10-208**, as last amended by Laws of Utah 2009, Chapters 292 and 356
- 40           **53-10-208.1**, as last amended by Laws of Utah 2009, Chapter 356
- 41           **57-22-5.1**, as last amended by Laws of Utah 2010, Chapter 352
- 42           **62A-4a-101**, as last amended by Laws of Utah 2009, Chapter 75
- 43           **76-5-108**, as last amended by Laws of Utah 2008, Chapter 3
- 44           **77-3a-101**, as last amended by Laws of Utah 2008, Chapter 3
- 45           **77-36-1**, as last amended by Laws of Utah 2010, Chapters 218 and 384
- 46           **77-36-2.1**, as last amended by Laws of Utah 2008, Chapter 3
- 47           **77-36-2.4**, as last amended by Laws of Utah 2010, Chapter 384
- 48           **77-36-2.7**, as last amended by Laws of Utah 2010, Chapter 384
- 49           **77-36-5.1**, as last amended by Laws of Utah 2010, Chapter 384
- 50           **77-36-6**, as last amended by Laws of Utah 2010, Chapter 384
- 51           **78A-6-103**, as last amended by Laws of Utah 2009, Chapter 146
- 52           **78B-7-101**, as enacted by Laws of Utah 2008, Chapter 3
- 53           **78B-7-102**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 54           **78B-7-103**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 55           **78B-7-105**, as last amended by Laws of Utah 2009, Chapter 232
- 56           **78B-7-106**, as last amended by Laws of Utah 2009, Chapter 146
- 57           **78B-7-107**, as last amended by Laws of Utah 2010, Chapter 34
- 58           **78B-7-108**, as renumbered and amended by Laws of Utah 2008, Chapter 3

59           **78B-7-110**, as renumbered and amended by Laws of Utah 2008, Chapter 3  
60           **78B-19-107**, as enacted by Laws of Utah 2010, Chapter 382

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

63           Section 1. Section **30-3-3** is amended to read:

64           **30-3-3. Award of costs, attorney and witness fees -- Temporary alimony.**

65           (1) In any action filed under Title 30, Chapter 3, Divorce, Chapter 4, Separate  
66 Maintenance, or Title 78B, Chapter 7, Part 1, Cohabitant and Dating Partner Abuse Act, and in  
67 any action to establish an order of custody, parent-time, child support, alimony, or division of  
68 property in a domestic case, the court may order a party to pay the costs, attorney fees, and  
69 witness fees, including expert witness fees, of the other party to enable the other party to  
70 prosecute or defend the action. The order may include provision for costs of the action.

71           (2) In any action to enforce an order of custody, parent-time, child support, alimony, or  
72 division of property in a domestic case, the court may award costs and attorney fees upon  
73 determining that the party substantially prevailed upon the claim or defense. The court, in its  
74 discretion, may award no fees or limited fees against a party if the court finds the party is  
75 impecunious or enters in the record the reason for not awarding fees.

76           (3) In any action listed in Subsection (1), the court may order a party to provide money,  
77 during the pendency of the action, for the separate support and maintenance of the other party  
78 and of any children in the custody of the other party.

79           (4) Orders entered under this section prior to entry of the final order or judgment may  
80 be amended during the course of the action or in the final order or judgment.

81           Section 2. Section **30-3-32** is amended to read:

82           **30-3-32. Parent-time -- Intent -- Policy -- Definitions.**

83           (1) It is the intent of the Legislature to promote parent-time at a level consistent with  
84 all parties' interests.

85           (2) (a) A court shall consider as primary the safety and well-being of the child and the  
86 parent who is the victim of domestic or family violence.

87           (b) Absent a showing by a preponderance of evidence of real harm or substantiated  
88 potential harm to the child:

89           (i) it is in the best interests of the child of divorcing, divorced, or adjudicated parents to

90 have frequent, meaningful, and continuing access to each parent following separation or  
91 divorce;

92 (ii) each divorcing, separating, or adjudicated parent is entitled to and responsible for  
93 frequent, meaningful, and continuing access with his child consistent with the child's best  
94 interests; and

95 (iii) it is in the best interests of the child to have both parents actively involved in  
96 parenting the child.

97 (c) An order issued against a cohabitant by a court pursuant to Title 78B, Chapter 7,  
98 Part 1, Cohabitant and Dating Partner Abuse Act shall be considered evidence of real harm or  
99 substantiated potential harm to the child.

100 (3) For purposes of Sections 30-3-32 through 30-3-37:

101 (a) "Child" means the child or children of divorcing, separating, or adjudicated parents.

102 (b) "Christmas school vacation" means the time period beginning on the evening the  
103 child gets out of school for the Christmas or winter school break until the evening before the  
104 child returns to school.

105 (c) "Extended parent-time" means a period of parent-time other than a weekend,  
106 holiday as provided in Subsections 30-3-35(2)(f) and (2)(g), religious holidays as provided in  
107 Subsections 30-3-33(3) and (17), and "Christmas school vacation."

108 (d) "Surrogate care" means care by any individual other than the parent of the child.

109 (e) "Uninterrupted time" means parent-time exercised by one parent without  
110 interruption at any time by the presence of the other parent.

111 (f) "Virtual parent-time" means parent-time facilitated by tools such as telephone,  
112 email, instant messaging, video conferencing, and other wired or wireless technologies over the  
113 Internet or other communication media to supplement in-person visits between a noncustodial  
114 parent and a child or between a child and the custodial parent when the child is staying with the  
115 noncustodial parent. Virtual parent-time is designed to supplement, not replace, in-person  
116 parent-time.

117 (4) If a parent relocates because of an act of domestic violence or family violence by  
118 the other parent, the court shall make specific findings and orders with regards to the  
119 application of Section 30-3-37.

120 Section 3. Section **53-10-208** is amended to read:

121           **53-10-208. Definition -- Offenses included on statewide warrant system --**  
122 **Transportation fee to be included -- Statewide warrant system responsibility -- Quality**  
123 **control -- Training -- Technical support -- Transaction costs.**

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

126           (a) records of criminal warrant information; and

127           (b) after notice and hearing, records of protective orders issued pursuant to:

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

129           (ii) Title 78B, Chapter 7, Part 1, Cohabitant and Dating Partner Abuse Act.

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

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

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

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

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

140           (b) upon the expiration of the protective orders and in the manner prescribed by the  
141 division, purge information regarding protective orders described in Subsection 53-10-208.1(4)  
142 within 30 days of the time after expiration;

143           (c) establish system procedures and provide training to all criminal justice agencies  
144 having access to information contained on the state warrant system;

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

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

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

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

153 Section 4. Section **53-10-208.1** is amended to read:

154 **53-10-208.1. Magistrates and court clerks to supply information.**

155 Every magistrate or clerk of a court responsible for court records in this state shall,  
156 within 30 days of the disposition and on forms and in the manner provided by the division,  
157 furnish the division with information pertaining to:

158 (1) all dispositions of criminal matters, including:

159 (a) guilty pleas;

160 (b) convictions;

161 (c) dismissals;

162 (d) acquittals;

163 (e) pleas held in abeyance;

164 (f) judgments of not guilty by reason of insanity for a violation of:

165 (i) a felony offense;

166 (ii) Title 76, Chapter 5, Offenses Against the Person; or

167 (iii) Title 76, Chapter 10, Part 5, Weapons;

168 (g) judgments of guilty and mentally ill;

169 (h) finding of mental incompetence to stand trial for a violation of:

170 (i) a felony offense;

171 (ii) Title 76, Chapter 5, Offenses Against the Person; or

172 (iii) Title 76, Chapter 10, Part 5, Weapons; or

173 (i) probations granted; and

174 (2) orders of civil commitment under the terms of Section 62A-15-631;

175 (3) the issuance, recall, cancellation, or modification of all warrants of arrest or

176 commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303,  
177 within one day of the action and in a manner provided by the division; and

178 (4) protective orders issued after notice and hearing, pursuant to:

179 (a) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or

180 (b) Title 78B, Chapter 7, Part 1, Cohabitant and Dating Partner Abuse Act.

181 Section 5. Section **57-22-5.1** is amended to read:

182 **57-22-5.1. Crime victim's right to new locks -- Domestic violence victim's right to**

183 **terminate rental agreement.**

184 (1) As used in this section, "crime victim" means a victim of:

185 (a) domestic violence, as defined in Section 77-36-1;

186 (b) stalking as defined in Section 76-5-106.5;

187 (c) a crime under Title 76, Chapter 5, Part 4, Sexual Offenses;

188 (d) burglary or aggravated burglary under Section 76-6-202 or 76-6-203; or

189 (e) dating violence, consisting of verbal, emotional, psychological, physical, or sexual  
190 abuse of one person by another in a dating relationship.

191 (2) An acceptable form of documentation of an act listed in Subsection (1) is:

192 (a) a protective order protecting the renter issued pursuant to Title 78B, Chapter 7, Part  
193 1, Cohabitant and Dating Partner Abuse Act, subsequent to a hearing of which the petitioner  
194 and respondent have been given notice under Title 78B, Chapter 7, Part 1, Cohabitant and  
195 Dating Partner Abuse Act; or

196 (b) a copy of a police report documenting an act listed in Subsection (1).

197 (3) (a) A renter who is a crime victim may require the renter's owner to install a new  
198 lock to the renter's residential rental unit if the renter:

199 (i) provides the owner with an acceptable form of documentation of an act listed in  
200 Subsection (1); and

201 (ii) pays for the cost of installing the new lock.

202 (b) An owner may comply with Subsection (3)(a) by:

203 (i) rekeying the lock if the lock is in good working condition; or

204 (ii) changing the entire locking mechanism with a locking mechanism of equal or  
205 greater quality than the lock being replaced.

206 (c) An owner who installs a new lock under Subsection (3)(a) may retain a copy of the  
207 key that opens the new lock.

208 (d) Notwithstanding any rental agreement, an owner who installs a new lock under  
209 Subsection (3)(a) shall refuse to provide a copy of the key that opens the new lock to the  
210 perpetrator of the act listed in Subsection (1).

211 (e) Notwithstanding Section 78B-6-814, if an owner refuses to provide a copy of the  
212 key under Subsection (3)(d) to a perpetrator who is not barred from the residential rental unit  
213 by a protective order but is a renter on the rental agreement, the perpetrator may file a petition

214 with a court of competent jurisdiction within 30 days to:

215 (i) establish whether the perpetrator should be given a key and allowed access to the  
216 residential rental unit; or

217 (ii) whether the perpetrator should be relieved of further liability under the rental  
218 agreement because of the owner's exclusion of the perpetrator from the residential rental unit.

219 (f) Notwithstanding Subsection (3)(e)(ii), a perpetrator may not be relieved of further  
220 liability under the rental agreement if the perpetrator is found by the court to have committed  
221 the act upon which the landlord's exclusion of the perpetrator is based.

222 (4) A renter who is a victim of domestic violence, as defined in Section 77-36-1, may  
223 terminate a rental agreement if the renter:

224 (a) is in compliance with:

225 (i) all provisions of Section 57-22-5; and

226 (ii) all obligations under the rental agreement;

227 (b) provides the owner:

228 (i) written notice of termination; and

229 (ii) a protective order protecting the renter from a domestic violence perpetrator; and

230 (c) no later than the date that the renter provides a notice of termination under

231 Subsection (4)(b)(i), pays the owner the equivalent of 45 days' rent for the period beginning on  
232 the date that the renter provides the notice of termination.

233 Section 6. Section **62A-4a-101** is amended to read:

234 **62A-4a-101. Definitions.**

235 As used in this chapter:

236 (1) "Abuse" is as defined in Section 78A-6-105.

237 (2) "Adoption services" means:

238 (a) placing children for adoption;

239 (b) subsidizing adoptions under Section 62A-4a-105;

240 (c) supervising adoption placements until the adoption is finalized by the court;

241 (d) conducting adoption studies;

242 (e) preparing adoption reports upon request of the court; and

243 (f) providing postadoptive placement services, upon request of a family, for the

244 purpose of stabilizing a possible disruptive placement.



245 (3) "Child" means, except as provided in Part 7, Interstate Compact on Placement of  
246 Children, a person under 18 years of age.

247 (4) "Consumer" means a person who receives services offered by the division in  
248 accordance with this chapter.

249 (5) "Chronic abuse" means repeated or patterned abuse.

250 (6) "Chronic neglect" means repeated or patterned neglect.

251 (7) "Custody," with regard to the division, means the custody of a minor in the division  
252 as of the date of disposition.

253 (8) "Day-care services" means care of a child for a portion of the day which is less than  
254 24 hours:

255 (a) in the child's own home by a responsible person; or

256 (b) outside of the child's home in a:

257 (i) day-care center;

258 (ii) family group home; or

259 (iii) family child care home.

260 (9) "Dependent child" or "dependency" means a child, or the condition of a child, who  
261 is homeless or without proper care through no fault of the child's parent, guardian, or custodian.

262 (10) "Director" means the director of the Division of Child and Family Services.

263 (11) "Division" means the Division of Child and Family Services.

264 (12) "Domestic violence services" means:

265 (a) temporary shelter, treatment, and related services to:

266 (i) a person who is a victim of abuse, as defined in Section 78B-7-102, by a cohabitant,  
267 as defined in Section 78B-7-102; and

268 (ii) the dependent children of a person described in Subsection (12)(a)(i); and

269 (b) treatment services for a person who is alleged to have committed, has been  
270 convicted of, or has pled guilty to, an act of domestic violence as defined in Section 77-36-1.

271 (13) "Harm" is as defined in Section 78A-6-105.

272 (14) "Homemaking service" means the care of individuals in their domiciles, and help  
273 given to individual caretaker relatives to achieve improved household and family management  
274 through the services of a trained homemaker.

275 (15) "Incest" is as defined in Section 78A-6-105.

276 (16) "Minor" means, except as provided in Part 7, Interstate Compact on Placement of  
277 Children:

278 (a) a child; or

279 (b) a person:

280 (i) who is at least 18 years of age and younger than 21 years of age; and

281 (ii) for whom the division has been specifically ordered by the juvenile court to provide  
282 services.

283 (17) "Molestation" is as defined in Section 78A-6-105.

284 (18) "Natural parent" means a minor's biological or adoptive parent, and includes a  
285 minor's noncustodial parent.

286 (19) "Neglect" is as defined in Section 78A-6-105.

287 (20) "Protective custody," with regard to the division, means the shelter of a child by  
288 the division from the time the child is removed from the child's home until the earlier of:

289 (a) the shelter hearing; or

290 (b) the child's return home.

291 (21) "Protective services" means expedited services that are provided:

292 (a) in response to evidence of neglect, abuse, or dependency of a child;

293 (b) to a cohabitant who is neglecting or abusing a child, in order to:

294 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the  
295 causes of neglect or abuse; and

296 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

297 (c) in cases where the child's welfare is endangered:

298 (i) to bring the situation to the attention of the appropriate juvenile court and law  
299 enforcement agency;

300 (ii) to cause a protective order to be issued for the protection of the child, when  
301 appropriate; and

302 (iii) to protect the child from the circumstances that endanger the child's welfare  
303 including, when appropriate:

304 (A) removal from the child's home;

305 (B) placement in substitute care; and

306 (C) petitioning the court for termination of parental rights.

- 307 (22) "Severe abuse" is as defined in Section 78A-6-105.
- 308 (23) "Severe neglect" is as defined in Section 78A-6-105.
- 309 (24) "Sexual abuse" is as defined in Section 78A-6-105.
- 310 (25) "Sexual exploitation" is as defined in Section 78A-6-105.
- 311 (26) "Shelter care" means the temporary care of a minor in a nonsecure facility.
- 312 (27) "State" means:
  - 313 (a) a state of the United States;
  - 314 (b) the District of Columbia;
  - 315 (c) the Commonwealth of Puerto Rico;
  - 316 (d) the Virgin Islands;
  - 317 (e) Guam;
  - 318 (f) the Commonwealth of the Northern Mariana Islands; or
  - 319 (g) a territory or possession administered by the United States.
- 320 (28) "State plan" means the written description of the programs for children, youth, and  
321 family services administered by the division in accordance with federal law.
- 322 (29) "Status offense" means a violation of the law that would not be a violation but for  
323 the age of the offender.
- 324 (30) "Substance abuse" is as defined in Section 78A-6-105.
- 325 (31) "Substantiated" or "substantiation" means a judicial finding based on a  
326 preponderance of the evidence that abuse or neglect occurred. Each allegation made or  
327 identified in a given case shall be considered separately in determining whether there should be  
328 a finding of substantiated.
- 329 (32) "Substitute care" means:
  - 330 (a) the placement of a minor in a family home, group care facility, or other placement  
331 outside the minor's own home, either at the request of a parent or other responsible relative, or  
332 upon court order, when it is determined that continuation of care in the minor's own home  
333 would be contrary to the minor's welfare;
  - 334 (b) services provided for a minor awaiting placement; and
  - 335 (c) the licensing and supervision of a substitute care facility.
- 336 (33) "Supported" means a finding by the division based on the evidence available at the  
337 completion of an investigation that there is a reasonable basis to conclude that abuse, neglect,

338 or dependency occurred. Each allegation made or identified during the course of the  
339 investigation shall be considered separately in determining whether there should be a finding of  
340 supported.

341 (34) "Temporary custody," with regard to the division, means the custody of a child in  
342 the division from the date of the shelter hearing until disposition.

343 (35) "Transportation services" means travel assistance given to an individual with  
344 escort service, if necessary, to and from community facilities and resources as part of a service  
345 plan.

346 (36) "Unsubstantiated" means a judicial finding that there is insufficient evidence to  
347 conclude that abuse or neglect occurred.

348 (37) "Unsupported" means a finding at the completion of an investigation that there is  
349 insufficient evidence to conclude that abuse, neglect, or dependency occurred. However, a  
350 finding of unsupported means also that the division worker did not conclude that the allegation  
351 was without merit.

352 (38) "Without merit" means a finding at the completion of an investigation by the  
353 division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or  
354 that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

355 Section 7. Section **76-5-108** is amended to read:

356 **76-5-108. Protective orders restraining abuse of another -- Violation.**

357 (1) Any person who is the respondent or defendant subject to a protective order, child  
358 protective order, ex parte protective order, or ex parte child protective order issued under Title  
359 78B, Chapter 7, Part 1, Cohabitant and Dating Partner Abuse Act, or Title 78A, Chapter 6,  
360 Juvenile Court Act of 1996, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, or a  
361 foreign protection order enforceable under Title 78B, Chapter 7, Part 3, Uniform Interstate  
362 Enforcement of Domestic Violence Protection Orders Act, who intentionally or knowingly  
363 violates that order after having been properly served, is guilty of a class A misdemeanor, except  
364 as a greater penalty may be provided in Title 77, Chapter 36, Cohabitant Abuse Procedures  
365 Act.

366 (2) Violation of an order as described in Subsection (1), except for an order relating to  
367 parties who are dating partners, as defined in Section 78B-7-102, is a domestic violence  
368 offense under Section 77-36-1 and subject to increased penalties in accordance with Section

369 77-36-1.1.

370 Section 8. Section **77-3a-101** is amended to read:

371 **77-3a-101. Civil stalking injunction -- Petition -- Ex parte injunction.**

372 (1) As used in this chapter, "stalking" means the crime of stalking as defined in Section  
373 76-5-106.5. Stalking injunctions may not be obtained against law enforcement officers,  
374 governmental investigators, or licensed private investigators, acting in their official capacity.

375 (2) Any person who believes that he or she is the victim of stalking may file a verified  
376 written petition for a civil stalking injunction against the alleged stalker with the district court  
377 in the district in which the petitioner or respondent resides or in which any of the events  
378 occurred. A minor with his or her parent or guardian may file a petition on his or her own  
379 behalf, or a parent, guardian, or custodian may file a petition on the minor's behalf.

380 (3) The Administrative Office of the Courts shall develop and adopt uniform forms for  
381 petitions, ex parte civil stalking injunctions, civil stalking injunctions, service and any other  
382 necessary forms in accordance with the provisions of this chapter on or before July 1, 2001.  
383 The office shall provide the forms to the clerk of each district court.

384 (a) All petitions, injunctions, ex parte injunctions, and any other necessary forms shall  
385 be issued in the form adopted by the Administrative Office of the Courts.

386 (b) The offices of the court clerk shall provide the forms to persons seeking to proceed  
387 under this chapter.

388 (4) The petition for a civil stalking injunction shall include:

389 (a) the name of the petitioner; however, the petitioner's address shall be disclosed to the  
390 court for purposes of service, but, on request of the petitioner, the address may not be listed on  
391 the petition, and shall be protected and maintained in a separate document or automated  
392 database, not subject to release, disclosure, or any form of public access except as ordered by  
393 the court for good cause shown;

394 (b) the name and address, if known, of the respondent;

395 (c) specific events and dates of the actions constituting the alleged stalking;

396 (d) if there is a prior court order concerning the same conduct, the name of the court in  
397 which the order was rendered; and

398 (e) corroborating evidence of stalking, which may be in the form of a police report,  
399 affidavit, record, statement, item, letter, or any other evidence which tends to prove the

400 allegation of stalking.

401 (5) If the court determines that there is reason to believe that an offense of stalking has  
402 occurred, an ex parte civil stalking injunction may be issued by the court that includes any of  
403 the following:

404 (a) respondent may be enjoined from committing stalking;

405 (b) respondent may be restrained from coming near the residence, place of  
406 employment, or school of the other party or specifically designated locations or persons;

407 (c) respondent may be restrained from contacting, directly or indirectly, the other party,  
408 including personal, written or telephone contact with the other party, the other party's  
409 employers, employees, fellow workers or others with whom communication would be likely to  
410 cause annoyance or alarm to the other party; or

411 (d) any other relief necessary or convenient for the protection of the petitioner and  
412 other specifically designated persons under the circumstances.

413 (6) Within 10 days of service of the ex parte civil stalking injunction, the respondent is  
414 entitled to request, in writing, an evidentiary hearing on the civil stalking injunction.

415 (a) A hearing requested by the respondent shall be held within 10 days from the date  
416 the request is filed with the court unless the court finds compelling reasons to continue the  
417 hearing. The hearing shall then be held at the earliest possible time. The burden is on the  
418 petitioner to show by a preponderance of the evidence that stalking of the petitioner by the  
419 respondent has occurred.

420 (b) An ex parte civil stalking injunction issued under this section shall state on its face:

421 (i) that the respondent is entitled to a hearing, upon written request within 10 days of  
422 the service of the order;

423 (ii) the name and address of the district court where the request may be filed;

424 (iii) that if the respondent fails to request a hearing within 10 days of service, the ex  
425 parte civil stalking injunction is automatically modified to a civil stalking injunction without  
426 further notice to the respondent and that the civil stalking injunction expires three years after  
427 service of the ex parte civil stalking injunction; and

428 (iv) that if the respondent requests, in writing, a hearing after the ten-day period after  
429 service, the court shall set a hearing within a reasonable time from the date requested.

430 (7) At the hearing, the court may modify, revoke, or continue the injunction. The

431 burden is on the petitioner to show by a preponderance of the evidence that stalking of the  
432 petitioner by the respondent has occurred.

433 (8) The ex parte civil stalking injunction and civil stalking injunction shall include the  
434 following statement: "Attention. This is an official court order. If you disobey this order, the  
435 court may find you in contempt. You may also be arrested and prosecuted for the crime of  
436 stalking and any other crime you may have committed in disobeying this order."

437 (9) The ex parte civil stalking injunction shall be served on the respondent within 90  
438 days from the date it is signed. An ex parte civil stalking injunction is effective upon service.  
439 If no hearing is requested in writing by the respondent within 10 days of service of the ex parte  
440 civil stalking injunction, the ex parte civil stalking injunction automatically becomes a civil  
441 stalking injunction without further notice to the respondent and expires three years from the  
442 date of service of the ex parte civil stalking injunction.

443 (10) If the respondent requests a hearing after the ten-day period after service, the court  
444 shall set a hearing within a reasonable time from the date requested. At the hearing, the burden  
445 is on the respondent to show good cause why the civil stalking injunction should be dissolved  
446 or modified.

447 (11) Within 24 hours after the affidavit or acceptance of service has been returned,  
448 excluding weekends and holidays, the clerk of the court from which the ex parte civil stalking  
449 injunction was issued shall enter a copy of the ex parte civil stalking injunction and proof of  
450 service or acceptance of service in the statewide network for warrants or a similar system.

451 (a) The effectiveness of an ex parte civil stalking injunction or civil stalking injunction  
452 shall not depend upon its entry in the statewide system and, for enforcement purposes, a  
453 certified copy of an ex parte civil stalking injunction or civil stalking injunction is presumed to  
454 be a valid existing order of the court for a period of three years from the date of service of the  
455 ex parte civil stalking injunction on the respondent.

456 (b) Any changes or modifications of the ex parte civil stalking injunction are effective  
457 upon service on the respondent. The original ex parte civil stalking injunction continues in  
458 effect until service of the changed or modified civil stalking injunction on the respondent.

459 (12) Within 24 hours after the affidavit or acceptance of service has been returned,  
460 excluding weekends and holidays, the clerk of the court shall enter a copy of the changed or  
461 modified civil stalking injunction and proof of service or acceptance of service in the statewide

462 network for warrants or a similar system.

463 (13) The ex parte civil stalking injunction or civil stalking injunction may be dissolved  
464 at any time upon application of the petitioner to the court which granted it.

465 (14) The court clerk shall provide, without charge, to the petitioner one certified copy  
466 of the injunction issued by the court and one certified copy of the proof of service of the  
467 injunction on the respondent. Charges may be imposed by the clerk's office for any additional  
468 copies, certified or not certified in accordance with Rule 4-202.08 of the Code of Judicial  
469 Administration.

470 (15) The remedies provided in this chapter for enforcement of the orders of the court  
471 are in addition to any other civil and criminal remedies available. The district court shall hear  
472 and decide all matters arising pursuant to this section.

473 (16) After a hearing with notice to the affected party, the court may enter an order  
474 requiring any party to pay the costs of the action, including reasonable attorney fees.

475 (17) This chapter does not apply to protective orders or ex parte protective orders  
476 issued pursuant to Title 78B, Chapter 7, Part 1, Cohabitant and Dating Partner Abuse Act, or to  
477 preliminary injunctions issued pursuant to an action for dissolution of marriage or legal  
478 separation.

479 Section 9. Section **77-36-1** is amended to read:

480 **77-36-1. Definitions.**

481 As used in this chapter:

482 (1) "Cohabitant" [~~has the same meaning as~~] is as defined in Section 78B-7-102.

483 (2) "Dating violence" is as defined in Section 78B-7-102.

484 [~~(2)~~] (3) "Department" means the Department of Public Safety.

485 [~~(3)~~] (4) "Divorced" means an individual who has obtained a divorce under Title 30,  
486 Chapter 3, Divorce.

487 [~~(4)~~] (5) "Domestic violence" means:

488 (a) any criminal offense involving violence or physical harm or threat of violence or  
489 physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense  
490 involving violence or physical harm, when committed by one cohabitant against another[-  
491 "~~Domestic violence~~" also means]; or

492 (b) commission or attempt to commit, any of the following offenses by one cohabitant



493 against another:

494 ~~[(a)]~~ (i) aggravated assault, as described in Section 76-5-103;

495 ~~[(b)]~~ (ii) assault, as described in Section 76-5-102;

496 ~~[(c)]~~ (iii) criminal homicide, as described in Section 76-5-201;

497 ~~[(d)]~~ (iv) harassment, as described in Section 76-5-106;

498 ~~[(e)]~~ (v) electronic communication harassment, as described in Section 76-9-201;

499 ~~[(f)]~~ (vi) kidnapping, child kidnapping, or aggravated kidnapping, as described in  
500 Sections 76-5-301, 76-5-301.1, and 76-5-302;

501 ~~[(g)]~~ (vii) mayhem, as described in Section 76-5-105;

502 ~~[(h)]~~ (viii) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses,  
503 and Title 76, Chapter 5a, Sexual Exploitation of Children;

504 ~~[(i)]~~ (ix) stalking, as described in Section 76-5-106.5;

505 ~~[(j)]~~ (x) unlawful detention, as described in Section 76-5-304;

506 ~~[(k)]~~ (xi) violation of a protective order or ex parte protective order, as described in  
507 Section 76-5-108;

508 ~~[(l)]~~ (xii) any offense against property described in Title 76, Chapter 6, Part 1, Property  
509 Destruction, Part 2, Burglary and Criminal Trespass, or Part 3, Robbery;

510 ~~[(m)]~~ (xiii) possession of a deadly weapon with intent to assault, as described in  
511 Section 76-10-507;

512 ~~[(n)]~~ (xiv) discharge of a firearm from a vehicle, near a highway, or in the direction of  
513 any person, building, or vehicle, as described in Section 76-10-508;

514 (xv) commission of domestic violence in the presence of a child, as described in  
515 Section 76-5-109.1; or

516 ~~[(o)]~~ (xvi) disorderly conduct, as defined in Section 76-9-102, if a conviction of  
517 disorderly conduct is the result of a plea agreement in which the defendant was originally  
518 charged with any of the domestic violence offenses otherwise described in this Subsection ~~[(4)]~~  
519 (5). Conviction of disorderly conduct as a domestic violence offense, in the manner described  
520 in ~~[this]~~ Subsection ~~[(4)(o)]~~ (5)(b)(xvi), does not constitute a misdemeanor crime of domestic  
521 violence under 18 U.S.C. Section 921, and is exempt from the provisions of the federal  
522 Firearms Act, 18 U.S.C. Section 921 et seq. ~~[-or]~~

523 ~~[(p) child abuse as described in Section 76-5-109.1.]~~

524 [~~(5)~~] (6) "Jail release agreement" means a written agreement:

525 (a) specifying and limiting the contact a person arrested for a domestic violence offense  
526 may have with an alleged victim or other specified individuals; and

527 (b) specifying other conditions of release from jail as required in Subsection 77-36-2.5

528 (1).

529 [~~(6)~~] (7) "Jail release court order" means a written court order:

530 (a) specifying and limiting the contact a person arrested for a domestic violence offense  
531 may have with an alleged victim or other specified individuals; and

532 (b) specifying other conditions of release from jail as required in Subsection  
533 77-36-2.5(1).

534 [~~(7)~~] (8) "Marital status" means married and living together, divorced, separated, or not  
535 married.

536 [~~(8)~~] (9) "Married and living together" means a man and a woman whose marriage was  
537 solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

538 [~~(9)~~] (10) "Not married" means any living arrangement other than married and living  
539 together, divorced, or separated.

540 [~~(10)~~] (11) "Pretrial protective order" means a written order:

541 (a) specifying and limiting the contact a person who has been charged with a domestic  
542 violence offense may have with an alleged victim or other specified individuals; and

543 (b) specifying other conditions of release pursuant to Subsection 77-36-2.5(2)(c),  
544 Subsection 77-36-2.6(3), or Section 77-36-2.7, pending trial in the criminal case.

545 [~~(11)~~] (12) "Sentencing protective order" means a written order of the court as part of  
546 sentencing in a domestic violence case that limits the contact a person who has been convicted  
547 of a domestic violence offense may have with a victim or other specified individuals pursuant  
548 to Sections 77-36-5 and 77-36-5.1.

549 [~~(12)~~] (13) "Separated" means a man and a woman who have had their marriage  
550 solemnized under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

551 [~~(13)~~] (14) "Victim" means:

552 (a) a cohabitant who has been subjected to domestic violence[-]; or

553 (b) a person who has been subjected by a dating partner, as defined in Section  
554 78B-7-102, to:

555 (i) abuse, as defined in Section 78B-7-102; or

556 (ii) dating violence.

557 Section 10. Section **77-36-2.1** is amended to read:

558 **77-36-2.1. Duties of law enforcement officers -- Notice to victims.**

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

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

563 (b) confiscating the weapon or weapons involved in the alleged domestic violence;

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

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

567 (e) arrange, facilitate, or provide for the victim and any child to obtain medical  
568 treatment; and

569 (f) arrange, facilitate, or provide the victim with immediate and adequate notice of the  
570 rights of victims and of the remedies and services available to victims of domestic violence, in  
571 accordance with Subsection (2).

572 (2) (a) A law enforcement officer shall give written notice to the victim of domestic  
573 violence in simple language, describing the rights and remedies available under this chapter,  
574 Title 78B, Chapter 7, Part 1, Cohabitant and Dating Partner Abuse Act, and Title 78B, Chapter  
575 7, Part 2, Child Protective Orders.

576 (b) The written notice shall also include:

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

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

582 (iii) the information required to be provided to both parties in accordance with  
583 Subsection 77-36-2.5(7).

584 Section 11. Section **77-36-2.4** is amended to read:

585 **77-36-2.4. Violation of protective orders -- Mandatory arrest -- Penalties.**

586 (1) A law enforcement officer shall, without a warrant, arrest an alleged perpetrator  
587 whenever there is probable cause to believe that the alleged perpetrator has violated any of the  
588 provisions of an ex parte protective order or protective order.

589 (2) (a) Intentional or knowing violation of any ex parte protective order or protective  
590 order is a class A misdemeanor, in accordance with Section 76-5-108, except where a greater  
591 penalty is provided in this chapter, and, except for an order relating to parties who are dating  
592 partners, as defined in Section 78B-7-102, is a domestic violence offense, pursuant to Section  
593 77-36-1.

594 (b) Second or subsequent violations of ex parte protective orders or protective orders  
595 carry increased penalties, in accordance with Section 77-36-1.1.

596 (3) As used in this section, "ex parte protective order" or "protective order" includes:

597 (a) any protective order or ex parte protective order issued under Title 78B, Chapter 7,  
598 Part 1, Cohabitant and Dating Partner Abuse Act;

599 (b) any jail release agreement, jail release court order, pretrial protective order, or  
600 sentencing protective order issued under Title 77, Chapter 36, Cohabitant Abuse Procedures  
601 Act;

602 (c) any child protective order or ex parte child protective order issued under Title 78B,  
603 Chapter 7, Part 2, Child Protective Orders; or

604 (d) a foreign protection order enforceable under Title 78B, Chapter 7, Part 3, Uniform  
605 Interstate Enforcement of Domestic Violence Protection Orders Act.

606 Section 12. Section **77-36-2.7** is amended to read:

607 **77-36-2.7. Dismissal -- Diversion prohibited -- Plea in abeyance -- Pretrial**  
608 **protective order pending trial.**

609 (1) Because of the serious nature of domestic violence, the court, in domestic violence  
610 actions:

611 (a) may not dismiss any charge or delay disposition because of concurrent divorce or  
612 other civil proceedings;

613 (b) may not require proof that either party is seeking a dissolution of marriage before  
614 instigation of criminal proceedings;

615 (c) shall waive any requirement that the victim's location be disclosed other than to the  
616 defendant's attorney and order the defendant's attorney not to disclose the victim's location to

617 the client;

618 (d) shall identify, on the docket sheets, the criminal actions arising from acts of  
619 domestic violence;

620 (e) may dismiss a charge on stipulation of the prosecutor and the victim; and

621 (f) may hold a plea in abeyance, in accordance with the provisions of Chapter 2a, Pleas  
622 in Abeyance, making treatment or any other requirement for the defendant a condition of that  
623 status.

624 (2) When the court holds a plea in abeyance in accordance with Subsection (1)(f), the  
625 case against a perpetrator of domestic violence may be dismissed only if the perpetrator  
626 successfully completes all conditions imposed by the court. If the defendant fails to complete  
627 any condition imposed by the court under Subsection (1)(f), the court may accept the  
628 defendant's plea.

629 (3) (a) Because of the likelihood of repeated violence directed at those who have been  
630 victims of domestic violence or dating violence in the past, when any defendant is charged with  
631 a crime involving domestic violence, or with violating a protective order relating to dating  
632 partners, as defined in Section 78B-7-102, the court may, during any court hearing where the  
633 defendant is present, issue a pretrial protective order, pending trial:

634 (i) enjoining the defendant from threatening to commit or committing acts of domestic  
635 violence, dating violence, or abuse against the victim and any designated family or household  
636 member;

637 (ii) prohibiting the defendant from harassing, telephoning, contacting, or otherwise  
638 communicating with the victim, directly or indirectly;

639 (iii) removing and excluding the defendant from the victim's residence and the  
640 premises of the residence;

641 (iv) ordering the defendant to stay away from the residence, school, place of  
642 employment of the victim, and the premises of any of these, or any specified place frequented  
643 by the victim and any designated family member; and

644 (v) ordering any other relief that the court considers necessary to protect and provide  
645 for the safety of the victim and any designated family or household member ~~Ĥ→~~ , **except that, if the**  
645a **defendant is charged with violating a protective order relating to dating partners, as defined in**  
645b **Section 78B-7-102, the court may not prohibit the defendant from purchasing, using, or**  
645c **possessing a firearm, unless the court finds that the defendant's use or possession of a firearm**  
645d **is likely to pose a serious threat of harm to the victim ←Ĥ** .

646 (b) Violation of an order issued pursuant to this section is punishable as follows:

647 (i) if the original arrest or subsequent charge filed is a felony, an offense under this

648 section is a third degree felony; and

649 (ii) if the original arrest or subsequent charge filed is a misdemeanor, an offense under  
650 this section is a class A misdemeanor.

651 (c) (i) The court shall provide the victim with a certified copy of any pretrial protective  
652 order that has been issued if the victim can be located with reasonable effort.

653 (ii) The court shall also transmit the pretrial protective order to the statewide domestic  
654 violence network.

655 (d) Issuance of a pretrial or sentencing protective order supercedes a written jail release  
656 agreement or a written jail release court order issued by the court at the time of arrest.

657 (4) (a) When a court dismisses criminal charges or a prosecutor moves to dismiss  
658 charges against a defendant accused of a domestic violence offense, the specific reasons for  
659 dismissal shall be recorded in the court file and made a part of the statewide domestic violence  
660 network described in Section 78B-7-113.

661 (b) The court shall transmit the dismissal to the statewide domestic violence network.

662 (c) Any pretrial protective orders, including jail release court orders and jail release  
663 agreements, related to the dismissed domestic violence criminal charge shall also be dismissed.

664 (5) When the privilege of confidential communication between spouses, or the  
665 testimonial privilege of spouses is invoked in any criminal proceeding in which a spouse is the  
666 victim of an alleged domestic violence offense, the victim shall be considered to be an  
667 unavailable witness under the Utah Rules of Evidence.

668 (6) The court may not approve diversion for a perpetrator of domestic violence.

669 Section 13. Section **77-36-5.1** is amended to read:

670 **77-36-5.1. Conditions of probation for person convicted of domestic violence**  
671 **offense.**

672 (1) Before any perpetrator who has been convicted of a domestic violence offense, or  
673 of violating a protective order relating to dating partners, as defined in Section 78B-7-102, may  
674 be placed on probation, the court shall consider the safety and protection of the victim and any  
675 member of the victim's family or household.

676 (2) The court may condition probation or a plea in abeyance on the perpetrator's  
677 compliance with one or more orders of the court, which may include a sentencing protective  
678 order:

679 (a) enjoining the perpetrator from threatening to commit or committing acts of  
680 domestic violence or dating violence against the victim or other family or household member;

681 (b) prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise  
682 communicating with the victim, directly or indirectly;

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

686 (d) prohibiting the perpetrator from possessing or consuming alcohol or controlled  
687 substances;

688 (e) prohibiting the perpetrator from purchasing, using, or possessing a firearm or other  
689 specified weapon ~~Ĥ→~~ , **except that, if the defendant is convicted of violating a protective order**  
689a **relating to dating partners, as defined in Section 78B-7-102, the court may not prohibit the**  
689b **defendant from purchasing, using, or possessing a firearm, unless the court finds that the**  
689c **defendant's use or possession of a firearm is likely to pose a serious threat of harm to the**  
689d **victim ←Ĥ** ;

690 (f) directing the perpetrator to surrender any weapons the perpetrator owns or  
691 possesses;

692 (g) directing the perpetrator to participate in and complete, to the satisfaction of the  
693 court, a program of intervention for perpetrators, treatment for alcohol or substance abuse, or  
694 psychiatric or psychological treatment;

695 (h) directing the perpetrator to pay restitution to the victim; and

696 (i) imposing any other condition necessary to protect the victim and any other  
697 designated family or household member or to rehabilitate the perpetrator.

698 (3) The perpetrator is responsible for the costs of any condition of probation, according  
699 to the perpetrator's ability to pay.

700 (4) (a) Adult Probation and Parole, or other provider, shall immediately report to the  
701 court and notify the victim of any offense involving domestic violence committed by the  
702 perpetrator, the perpetrator's failure to comply with any condition imposed by the court, and  
703 any violation of any sentencing criminal protective order issued by the court.

704 (b) Notification of the victim under Subsection (4)(a) shall consist of a good faith  
705 reasonable effort to provide prompt notification, including mailing a copy of the notification to  
706 the last-known address of the victim.

707 (5) The court shall transmit all dismissals, terminations, and expirations of pretrial and  
708 sentencing criminal protective orders issued by the court to the statewide domestic violence

709 network.



710 Section 14. Section **77-36-6** is amended to read:

711 **77-36-6. Enforcement of orders.**

712 (1) Each law enforcement agency in this state shall enforce all orders of the court  
713 issued pursuant to the requirements and procedures described in this chapter, and shall enforce:

714 (a) all protective orders and ex parte protective orders issued pursuant to Title 78B,  
715 Chapter 7, Part 1, Cohabitant and Dating Partner Abuse Act;

716 (b) jail release agreements, jail release court orders, pretrial protective orders, and  
717 sentencing protective orders; and

718 (c) all foreign protection orders enforceable under Title 78B, Chapter 7, Part 3,  
719 Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

720 (2) The requirements of this section apply statewide, regardless of the jurisdiction in  
721 which the order was issued or the location of the victim or the perpetrator.

722 Section 15. Section **78A-6-103** is amended to read:

723 **78A-6-103. Jurisdiction of juvenile court -- Original -- Exclusive.**

724 (1) Except as otherwise provided by law, the juvenile court has exclusive original  
725 jurisdiction in proceedings concerning:

726 (a) a child who has violated any federal, state, or local law or municipal ordinance or a  
727 person younger than 21 years of age who has violated any law or ordinance before becoming  
728 18 years of age, regardless of where the violation occurred, excluding offenses in Subsection  
729 78A-7-106(2);

730 (b) a person 21 years of age or older who has failed or refused to comply with an order  
731 of the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's  
732 21st birthday; however, the continuing jurisdiction is limited to causing compliance with  
733 existing orders;

734 (c) a child who is an abused child, neglected child, or dependent child, as those terms  
735 are defined in Section 78A-6-105;

736 (d) a protective order for a child pursuant to the provisions of Title 78B, Chapter 7,  
737 Part 2, Child Protective Orders, which the juvenile court may transfer to the district court if the  
738 juvenile court has entered an ex parte protective order and finds that:

739 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step  
740 parent of the child who is the object of the petition;

- 741 (ii) the district court has a petition pending or an order related to custody or parent-time
- 742 entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant and Dating
- 743 Partner Abuse Act, or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the
- 744 petitioner and the respondent are parties; and
- 745 (iii) the best interests of the child will be better served in the district court;
- 746 (e) appointment of a guardian of the person or other guardian of a minor who comes
- 747 within the court's jurisdiction under other provisions of this section;
- 748 (f) the emancipation of a minor in accordance with Part 8, Emancipation;
- 749 (g) the termination of the legal parent-child relationship in accordance with Part 5,
- 750 Termination of Parental Rights Act, including termination of residual parental rights and
- 751 duties;
- 752 (h) the treatment or commitment of a mentally retarded minor;
- 753 (i) a minor who is a habitual truant from school;
- 754 (j) the judicial consent to the marriage of a child under age 16 upon a determination of
- 755 voluntariness or where otherwise required by law, employment, or enlistment of a child when
- 756 consent is required by law;
- 757 (k) any parent or parents of a child committed to a secure youth corrections facility, to
- 758 order, at the discretion of the court and on the recommendation of a secure facility, the parent
- 759 or parents of a child committed to a secure facility for a custodial term, to undergo group
- 760 rehabilitation therapy under the direction of a secure facility therapist, who has supervision of
- 761 that parent's or parents' child, or any other therapist the court may direct, for a period directed
- 762 by the court as recommended by a secure facility;
- 763 (l) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;
- 764 (m) the treatment or commitment of a mentally ill child. The court may commit a child
- 765 to the physical custody of a local mental health authority in accordance with the procedures and
- 766 requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to
- 767 Division of Substance Abuse and Mental Health, but not directly to the Utah State Hospital;
- 768 (n) the commitment of a child in accordance with Section 62A-15-301;
- 769 (o) de novo review of final agency actions resulting from an informal adjudicative
- 770 proceeding as provided in Section 63G-4-402; and
- 771 (p) adoptions conducted in accordance with the procedures described in Title 78B,

772 Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order  
773 terminating the rights of a parent and finds that adoption is in the best interest of the child.

774 (2) Notwithstanding Section 78A-7-106 and Subsection 78A-5-102(9), the juvenile  
775 court has exclusive jurisdiction over the following offenses committed by a child:

776 (a) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

777 (b) Section 73-18-12, reckless operation; and

778 (c) class B and C misdemeanors, infractions, or violations of ordinances that are part of  
779 a single criminal episode filed in a petition that contains an offense over which the court has  
780 jurisdiction.

781 (3) The juvenile court has jurisdiction over an ungovernable or runaway child who is  
782 referred to it by the Division of Child and Family Services or by public or private agencies that  
783 contract with the division to provide services to that child where, despite earnest and persistent  
784 efforts by the division or agency, the child has demonstrated that the child:

785 (a) is beyond the control of the child's parent, guardian, lawful custodian, or school  
786 authorities to the extent that the child's behavior or condition endangers the child's own welfare  
787 or the welfare of others; or

788 (b) has run away from home.

789 (4) This section does not restrict the right of access to the juvenile court by private  
790 agencies or other persons.

791 (5) The juvenile court has jurisdiction of all magistrate functions relative to cases  
792 arising under Section 78A-6-702.

793 (6) The juvenile court has jurisdiction to make a finding of substantiated,  
794 unsubstantiated, or without merit, in accordance with Section 78A-6-323.

795 (7) The juvenile court has jurisdiction of matters transferred to it by another trial court  
796 pursuant to Subsection 78A-7-106(7).

797 Section 16. Section **78B-7-101** is amended to read:

798 **Part 1. Cohabitant and Dating Partner Abuse Act**

799 **78B-7-101. Title.**

800 This part is known [~~and may be cited~~] as the "Cohabitant and Dating Partner Abuse  
801 Act."

802 Section 17. Section **78B-7-102** is amended to read:

803 **78B-7-102. Definitions.**

804 As used in this chapter:

805 (1) "Abuse" means intentionally or knowingly:

806 (a) causing or attempting to cause ~~[a cohabitant]~~ physical harm to a person; or

807 [intentionally or knowingly]

808 (b) placing a ~~[cohabitant]~~ person in reasonable fear of imminent physical harm.

809 (2) (a) "Cohabitant" means a person who:

810 (i) (A) is an emancipated person pursuant to Section 15-2-1 or ~~[a person who]~~ Title

811 78A, Chapter 6, Part 8, Emancipation; or

812 (B) is 16 years of age or older ~~[who.]; and~~

813 ~~[(a)] (ii) (A) is or was a spouse of the other party;~~

814 ~~[(b)] (B) is or was living as if a spouse of the other party;~~

815 ~~[(c)] (C) is related by blood or marriage to the other party;~~

816 ~~[(d)] (D) has one or more children in common with the other party;~~

817 ~~[(e)] (E) is the biological parent of the other party's unborn child; or~~

818 ~~[(f)] (F) resides or has resided in the same residence as the other party.~~

819 ~~[(3)] (b) Notwithstanding Subsection (2)(a), "cohabitant" does not include:~~

820 ~~[(a)] (i) the relationship of ~~[natural]~~ biological parent, adoptive parent, or step-parent to~~

821 a minor; or

822 ~~[(b)] (ii) the relationship between ~~[natural]~~ biological, adoptive, step, or foster siblings~~

823 who are under 18 years of age.

824 ~~[(4)] (3) "Court clerk" means a district court clerk.~~

825 (4) "Dating partner" means a person who:

826 (a) (i) is an emancipated person pursuant to Section 15-2-1 or Title 78A, Chapter 6,

827 Part 8, Emancipation; or

828 (ii) is 18 years of age or older;

829 (b) is, or has been, in a dating relationship with the other party; and

830 (c) is not, and has not been, a cohabitant of the other party.

831 (5) (a) "Dating relationship" means a social relationship of a romantic or intimate

832 nature, regardless of whether the relationship involves sexual intimacy.

833 (b) "Dating relationship" does not include:

- 834 (i) a casual relationship; or  
835 (ii) casual fraternization between two individuals in a business, educational, or social  
836 context.
- 837 (c) In determining, based on a totality of the circumstances, whether a dating  
838 relationship exists:
- 839 (i) all relevant factors should be considered, including:
- 840 (A) whether the parties developed a minimal social interpersonal bonding, over and  
841 above a mere casual fraternization;
- 842 (B) the length of the parties' relationship;
- 843 (C) the nature and frequency of the parties' interactions;
- 844 (D) the ongoing expectations of the parties, individually or jointly, with respect to the  
845 relationship;
- 846 (E) whether, by statement or conduct, the parties demonstrated an affirmation of their  
847 relationship before others; and
- 848 (F) whether other reasons exist that support or detract from a finding that a dating  
849 relationship exists; and
- 850 (ii) it is not necessary that all, or a particular number, of the factors described in  
851 Subsection (5)(c)(i) are found to support the existence of a dating relationship.
- 852 (6) "Dating violence" means:
- 853 (a) any criminal offense involving violence or physical harm or threat of violence or  
854 physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense  
855 involving violence or physical harm, when committed by a person against a dating partner of  
856 the person; or
- 857 (b) the commission or attempt to commit, any of the following offenses by a person  
858 against a dating partner of the person:
- 859 (i) aggravated assault, as described in Section 76-5-103;
- 860 (ii) assault, as described in Section 76-5-102;
- 861 (iii) criminal homicide, as described in Section 76-5-201;
- 862 (iv) harassment, as described in Section 76-5-106;
- 863 (v) electronic communication harassment, as described in Section 76-9-201;
- 864 (vi) kidnaping, child kidnaping, or aggravated kidnaping, as described in Sections

865 76-5-301, 76-5-301.1, and 76-5-302;

866 (vii) mayhem, as described in Section 76-5-105;

867 (viii) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and  
868 Title 76, Chapter 5a, Sexual Exploitation of Children;

869 (ix) stalking, as described in Section 76-5-106.5;

870 (x) unlawful detention, as described in Section 76-5-304;

871 (xi) violation of a protective order or ex parte protective order, as described in Section  
872 76-5-108;

873 (xii) any offense against property described in Title 76, Chapter 6, Part 1, Property  
874 Destruction, Part 2, Burglary and Criminal Trespass, or Part 3, Robbery;

875 (xiii) possession of a deadly weapon with intent to assault, as described in Section  
876 76-10-507; or

877 (xiv) a felony offense under Section 76-10-508, discharge of a firearm from a vehicle,  
878 near a highway, or in the direction of any person, building, or vehicle.

879 ~~[(5)]~~ (7) "Domestic violence" means the same as that term is defined in Section  
880 77-36-1.

881 ~~[(6)]~~ (8) "Ex parte protective order" means an order issued without notice to the  
882 defendant in accordance with this chapter.

883 ~~[(7)]~~ (9) "Foreign protection order" is as defined in Section 78B-7-302.

884 ~~[(8)]~~ (10) "Law enforcement unit" or "law enforcement agency" means any public  
885 agency having general police power and charged with making arrests in connection with  
886 enforcement of the criminal statutes and ordinances of this state or any political subdivision.

887 ~~[(9)]~~ (11) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace  
888 Officer Classifications.

889 ~~[(10)]~~ (12) "Protective order" means an order issued pursuant to this chapter  
890 subsequent to a hearing on the petition, of which the petitioner and respondent have been given  
891 notice in accordance with this chapter.

892 Section 18. Section **78B-7-103** is amended to read:

893 **78B-7-103. Abuse or danger of abuse -- Protective orders.**

894 (1) (a) Any ~~[cohabitant who has been subjected to abuse or domestic violence, or to~~  
895 ~~whom there is a substantial likelihood of abuse or domestic violence;]~~ person may seek an ex

896 parte protective order or a protective order in accordance with this chapter, if the person is  
 897 subjected to, or there is a substantial likelihood that the person will be subjected to:

898 (i) abuse by a cohabitant or dating partner of the person;

899 (ii) domestic violence by a cohabitant of the person; or

900 (iii) dating violence by a dating partner of the person.

901 (b) A person may seek an order described in Subsection (1)(a), whether or not that  
 902 person;

903 (i) has left the residence or the premises in an effort to avoid further abuse[-]; or

904 (ii) has taken other action to end the relationship.

905 (2) A petition for a protective order may be filed under this chapter regardless of  
 906 whether an action for divorce between the parties is pending.

907 (3) A petition seeking a protective order may not be withdrawn without approval of the  
 908 court.

909 Section 19. Section **78B-7-105** is amended to read:

910 **78B-7-105. Forms for petitions and protective orders -- Assistance.**

911 (1) (a) The offices of the court clerk shall provide forms and nonlegal assistance to  
 912 persons seeking to proceed under this chapter.

913 (b) The Administrative Office of the Courts shall develop and adopt uniform forms for  
 914 petitions and orders for protection in accordance with the provisions of this chapter. That  
 915 office shall provide the forms to the clerk of each court authorized to issue protective orders.

916 The forms shall include:

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

920 (ii) a separate portion of the form for those provisions, the violation of which is a  
 921 criminal offense, and a separate portion for those provisions, the violation of which is a civil  
 922 violation, as provided in Subsection 78B-7-106[~~(5)~~](6);

923 (iii) language in the criminal provision portion stating violation of any criminal  
 924 provision is a class A misdemeanor, and language in the civil portion stating violation of or  
 925 failure to comply with a civil provision is subject to contempt proceedings;

926 (iv) a space for information the petitioner is able to provide to facilitate identification

927 of the respondent, such as Social Security number, driver license number, date of birth,  
928 address, telephone number, and physical description;

929 (v) a space for the petitioner to request a specific period of time for the civil provisions  
930 to be in effect, not to exceed 150 days, unless the petitioner provides in writing the reason for  
931 the requested extension of the length of time beyond 150 days;

932 (vi) a statement advising the petitioner that when a minor child is included in an ex  
933 parte protective order or a protective order, as part of either the criminal or the civil portion of  
934 the order, the petitioner may provide a copy of the order to the principal of the school where the  
935 child attends; and

936 (vii) a statement advising the petitioner that if the respondent fails to return custody of  
937 a minor child to the petitioner as ordered in a protective order, the petitioner may obtain from  
938 the court a writ of assistance.

939 (2) If the person seeking to proceed under this chapter is not represented by an  
940 attorney, it is the responsibility of the court clerk's office to provide:

941 (a) the forms adopted pursuant to Subsection (1);

942 (b) all other forms required to petition for an order for protection including, but not  
943 limited to, forms for service;

944 (c) clerical assistance in filling out the forms and filing the petition, in accordance with  
945 Subsection (1)(a). A court clerk's office may designate any other entity, agency, or person to  
946 provide that service, but the court clerk's office is responsible to see that the service is  
947 provided;

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

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

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

954 (3) No charges may be imposed by a court clerk, constable, or law enforcement agency  
955 for:

956 (a) filing a petition under this chapter;

957 (b) obtaining an ex parte protective order;



958 (c) obtaining copies, either certified or not certified, necessary for service or delivery to  
959 law enforcement officials; or

960 (d) fees for service of a petition, ex parte protective order, or protective order.

961 (4) A petition for an order of protection shall be in writing and verified.

962 (5) (a) All orders for protection shall be issued in the form adopted by the  
963 Administrative Office of the Courts pursuant to Subsection (1).

964 (b) Each protective order issued, except orders issued ex parte, shall include the  
965 following language:

966 "Respondent was afforded both notice and opportunity to be heard in the hearing that  
967 gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322,  
968 108 Stat. 1796, 18 U.S.C.A. 2265, this order is valid in all the United States, the District of  
969 Columbia, tribal lands, and United States territories. This order complies with the Uniform  
970 Interstate Enforcement of Domestic Violence Protection Orders Act."

971 (c) Each protective order issued in accordance with this part, including protective  
972 orders issued ex parte, shall include the following language:

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

978 Section 20. Section **78B-7-106** is amended to read:

979 **78B-7-106. Protective orders -- Ex parte protective orders -- Modification of**  
980 **orders -- Service of process -- Duties of the court.**

981 (1) If it appears from a petition for an order for protection or a petition to modify an  
982 order for protection that domestic violence, dating violence, or abuse has occurred or a  
983 modification of an order for protection is required, a court may:

984 (a) without notice, immediately issue an order for protection ex parte or modify an  
985 order for protection ex parte as [it] the court considers necessary to protect the petitioner and  
986 all parties named to be protected in the petition; or

987 (b) upon notice, issue an order for protection or modify an order after a hearing,  
988 whether or not the respondent appears.

989 (2) A court may grant the following relief without notice in an order for protection or a  
990 modification issued ex parte:

991 (a) enjoin the respondent from threatening to commit or committing domestic violence,  
992 dating violence, or abuse against the petitioner and any designated family or household  
993 member;

994 (b) prohibit the respondent from harassing, telephoning, contacting, or otherwise  
995 communicating with the petitioner, directly or indirectly;

996 (c) order that the respondent:

997 (i) is excluded and must stay away from the petitioner's residence and its premises[;  
998 ~~and order the respondent to stay away from the residence, school, or place of employment of~~  
999 ~~the petitioner, and the premises of any of these, or];~~

1000 (ii) except as provided in Subsection (4), stay away from the petitioner's:

1001 (A) school and the school's premises; and

1002 (B) place of employment and its premises; and

1003 (iii) stay away from any specified place frequented by the petitioner ~~and~~ or any  
1004 designated family or household member;

1005 (d) prohibit the respondent from being within a specified distance of the petitioner;

1006 ~~[(d)] (e) upon finding that the respondent's use or possession of a weapon may pose a~~  
1007 serious threat of harm to the petitioner, ~~H→~~ **or, if the order relates to dating partners, that the**  
1007a **respondent's use or possession of a weapon is likely to pose a threat of**

1007b **harm to the petitioner,** ~~←H~~ prohibit the respondent from purchasing, using, or  
1008 possessing a firearm or other weapon specified by the court;

1009 ~~[(e)] (f) order possession and use of an automobile and other essential personal effects,~~  
1010 and direct the appropriate law enforcement officer to accompany the petitioner to the residence  
1011 of the parties to ensure that the petitioner is safely restored to possession of the residence,  
1012 automobile, and other essential personal effects, or to supervise the petitioner's or respondent's  
1013 removal of personal belongings;

1014 ~~[(f)] (g) if the petitioner is a cohabitant of the other party, grant to the petitioner~~  
1015 temporary custody of any minor children of the parties;

1016 ~~[(g)] (h) order the appointment of the office of the Guardian Ad Litem to represent the~~  
1017 interests of any minor children of the parties, if abuse or neglect of the minor children is  
1018 alleged, or appoint a private guardian ad litem, if appropriate, pursuant to Section 78A-2-228;

1019 ~~[(h)] (i) order any further relief that the court considers necessary to provide for the~~

1020 safety and welfare of the petitioner and any designated family or household member; and  
1021 ~~(i)~~ (j) if ~~the~~ a petition by a cohabitant requests child support or spousal support, at  
1022 the hearing on the petition order both parties to provide verification of current income,  
1023 including year-to-date pay stubs or employer statements of year-to-date or other period of  
1024 earnings, as specified by the court, and complete copies of tax returns from at least the most  
1025 recent year.

1026 (3) A court may grant the following relief in an order for protection or a modification  
1027 of an order after notice and hearing, whether or not the respondent appears:

1028 (a) grant the relief described in Subsection (2); and

1029 (b) if the petitioner is a cohabitant of the other party, specify arrangements for  
1030 parent-time of any minor child by the respondent and require supervision of that parent-time by  
1031 a third party or deny parent-time if necessary to protect the safety of the petitioner or child.

1032 (4) If the petitioner is a dating partner of the respondent, a court:

1033 (a) may not enter an order under Subsection (2)(c)(ii) that:

1034 (i) excludes the respondent from the petitioner's school if the respondent attends the  
1035 same school as the petitioner; or

1036 (ii) excludes the respondent from the petitioner's place of employment if the  
1037 respondent is employed at the same location as the petitioner; and

1038 (b) may enter an order governing the respondent's conduct at a location described in  
1039 Subsection (4)(a).

1040 ~~(4)~~ (5) Following the protective order hearing, the court shall:

1041 (a) clearly distinguish whether the order relates to cohabitants or dating partners;

1042 ~~(a)~~ (b) as soon as possible, deliver the order to the county sheriff for service of  
1043 process;

1044 ~~(b)~~ (c) make reasonable efforts to ensure that the order for protection is understood by  
1045 the petitioner, and the respondent, if present;

1046 ~~(c)~~ (d) transmit electronically, by the end of the next business day after the order is  
1047 issued, a copy of the order for protection to the local law enforcement agency or agencies  
1048 designated by the petitioner; and

1049 ~~(d)~~ (e) transmit a copy of the order to the statewide domestic violence network  
1050 described in Section 78B-7-113.

1051           ~~[(5)]~~ (6) (a) Each protective order shall include two separate portions, one for  
1052 provisions, the violation of which are criminal offenses, and one for provisions, the violation of  
1053 which are civil violations, as follows:

1054           (i) criminal offenses are those under Subsections (2)(a) through ~~[(e)]~~ (f), and under  
1055 Subsection (3)(a) as it refers to Subsections (2)(a) through ~~[(e)]~~ (f); and

1056           (ii) civil offenses are those under Subsections (2)~~[(f), (h), and (i)]~~ (g), (i), and (j), and  
1057 Subsection (3)(a) as it refers to Subsections (2)~~[(f), (h), and (i)]~~ (g), (i), and (j).

1058           (b) The criminal provision portion shall include a statement that violation of any  
1059 criminal provision is a class A misdemeanor.

1060           (c) The civil provision portion shall include a notice that violation of or failure to  
1061 comply with a civil provision is subject to contempt proceedings.

1062           ~~[(6)]~~ (7) The protective order shall include:

1063           (a) a designation of a specific date, determined by the court, when the civil portion of  
1064 the protective order either expires or is scheduled for review by the court, which date may not  
1065 exceed 150 days after the date the order is issued, unless the court indicates on the record the  
1066 reason for setting a date beyond 150 days;

1067           (b) information the petitioner is able to provide to facilitate identification of the  
1068 respondent, such as Social Security number, driver license number, date of birth, address,  
1069 telephone number, and physical description; and

1070           (c) except for a protective order described in Subsection (8)(a), a statement advising  
1071 the petitioner that:

1072           (i) after two years from the date of issuance of the protective order, a hearing may be  
1073 held to dismiss the criminal portion of the protective order;

1074           (ii) the petitioner should, within the 30 days prior to the end of the two-year period,  
1075 advise the court of the petitioner's current address for notice of any hearing; and

1076           (iii) the address provided by the petitioner will not be made available to the respondent.

1077           (8) (a) A protective order issued under this section between parties who are dating  
1078 partners shall expire 180 days after the day on which the order is issued, unless, subject to  
1079 Subsection (8)(b), the court indicates on the record the reason for setting an expiration date that  
1080 is more than 180 days after the day on which the order is issued.

1081           (b) A court may not set an expiration date for a protective order described in

1082 Subsection (8)(a) that is more than two years after the day on which the order is issued.

1083       ~~[(7)]~~ (9) Child support and spouse support orders issued as part of a protective order  
1084 are subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income  
1085 Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non  
1086 IV-D Cases, except when the protective order is issued ex parte.

1087       ~~[(8)]~~ (10) (a) The county sheriff that receives the order from the court, pursuant to  
1088 Subsection ~~[(5)]~~ (6)(a), shall provide expedited service for orders for protection issued in  
1089 accordance with this chapter, and shall transmit verification of service of process, when the  
1090 order has been served, to the statewide domestic violence network described in Section  
1091 78B-7-113.

1092       (b) This section does not prohibit any law enforcement agency from providing service  
1093 of process if that law enforcement agency:

1094       (i) has contact with the respondent and service by that law enforcement agency is  
1095 possible; or

1096       (ii) determines that under the circumstances, providing service of process on the  
1097 respondent is in the best interests of the petitioner.

1098       ~~[(9)]~~ (11) (a) When an order is served on a respondent in a jail or other holding facility,  
1099 the law enforcement agency managing the facility shall make a reasonable effort to provide  
1100 notice to the petitioner at the time the respondent is released from incarceration.

1101       (b) Notification of the petitioner shall consist of a good faith reasonable effort to  
1102 provide notification, including mailing a copy of the notification to the last-known address of  
1103 the victim.

1104       ~~[(10)]~~ (12) A court may modify or vacate an order of protection or any provisions in  
1105 the order after notice and hearing, except that the criminal provisions of a protective order may  
1106 not be vacated within two years of issuance unless the petitioner:

1107       (a) is personally served with notice of the hearing as provided in Rules 4 and 5, Utah  
1108 Rules of Civil Procedure, and the petitioner personally appears before the court and gives  
1109 specific consent to the vacation of the criminal provisions of the protective order; or

1110       (b) submits a verified affidavit, stating agreement to the vacation of the criminal  
1111 provisions of the protective order.

1112       ~~[(11)]~~ (13) A protective order may be modified without a showing of substantial and

1113 material change in circumstances.

1114 [~~(12)~~] (14) Insofar as the provisions of this chapter are more specific than the Utah  
1115 Rules of Civil Procedure, regarding protective orders, the provisions of this chapter govern.

1116 Section 21. Section **78B-7-107** is amended to read:

1117 **78B-7-107. Hearings on ex parte orders.**

1118 (1) (a) When a court issues an ex parte protective order the court shall set a date for a  
1119 hearing on the petition within 20 days after the ex parte order is issued.

1120 (b) If at [~~that~~] the hearing described in Subsection (1)(a) the court does not issue a  
1121 protective order, the ex parte protective order shall expire, unless it is otherwise extended by  
1122 the court. Extensions beyond the 20-day period may not be granted unless:

1123 (i) the petitioner is unable to be present at the hearing;

1124 (ii) the respondent has not been served;

1125 (iii) the respondent has had the opportunity to present a defense at the hearing;

1126 (iv) the respondent requests that the ex parte order be extended; or

1127 (v) exigent circumstances exist.

1128 (c) Under no circumstances may an ex parte order be extended beyond 180 days from  
1129 the date of initial issuance.

1130 (d) If at [~~that~~] the hearing described in Subsection (1)(a) the court issues a protective  
1131 order, the ex parte protective order remains in effect until service of process of the protective  
1132 order is completed.

1133 (e) A protective order issued after notice and a hearing is effective until further order of  
1134 the court.

1135 (f) If the hearing on the petition is heard by a commissioner, either the petitioner or  
1136 respondent may file an objection within 10 days of the entry of the recommended order and the  
1137 assigned judge shall hold a hearing within 20 days of the filing of the objection.

1138 (2) Upon a hearing under this section, the court may grant any of the relief described in  
1139 Section 78B-7-106.

1140 (3) When a court denies a petition for an ex parte protective order or a petition to  
1141 modify an order for protection ex parte, upon the request of the petitioner, the court shall set  
1142 the matter for hearing and notify the petitioner and serve the respondent.

1143 (4) (a) A respondent who has been served with an ex parte protective order may seek to

1144 vacate the ex parte protective order prior to the hearing scheduled pursuant to Subsection (1)(a)  
1145 by filing a verified motion to vacate.

1146 (b) The [~~respondent's verified~~] motion [~~to vacate~~] described in Subsection (4)(a) and a  
1147 notice of hearing on that motion shall be personally served on the petitioner at least two days  
1148 prior to the hearing on the motion to vacate.

1149 Section 22. Section **78B-7-108** is amended to read:

1150 **78B-7-108. Mutual protective orders prohibited.**

1151 (1) A court may not grant a mutual order or mutual orders for protection to opposing  
1152 parties, unless each party:

1153 (a) has filed an independent petition against the other for a protective order, and both  
1154 petitions have been served;

1155 (b) makes a showing at a due process protective order hearing of [~~abuse or~~] domestic  
1156 violence, dating violence, or abuse committed by the other party; and

1157 (c) demonstrates that the [~~abuse or~~] domestic violence, dating violence, or abuse did  
1158 not occur in self-defense.

1159 (2) If the court issues mutual protective orders, the circumstances justifying those  
1160 orders shall be documented in the case file.

1161 Section 23. Section **78B-7-110** is amended to read:

1162 **78B-7-110. No denial of relief solely because of lapse of time.**

1163 The court may not deny a petitioner relief requested pursuant to this chapter solely  
1164 because of a lapse of time between an act of domestic violence, dating violence, or abuse and  
1165 the filing of the petition for an order of protection.

1166 Section 24. Section **78B-19-107** is amended to read:

1167 **78B-19-107. Emergency orders.**

1168 During a collaborative law process, a court may issue emergency orders, including  
1169 protective orders in accordance with Title 78B, Chapter 7, Part 1, Cohabitant and Dating  
1170 Partner Abuse Act, or Part 2, Child Protective Orders, to protect the health, safety, welfare, or  
1171 interest of a party or member of a party's household.

1172 Section 25. **Effective date.**

1173 This bill takes effect on September 1, 2011.

**Legislative Review Note**

**as of 8-30-10 10:21 AM**

**Office of Legislative Research and General Counsel**