

1 **PROTECTIVE ORDER AND STALKING INJUNCTION**

2 **EXPUNGEMENT**

3 2022 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Todd D. Weiler**

6 House Sponsor: _____

7

LONG TITLE

8 **General Description:**

9 This bill addresses the expungement of protective orders and stalking injunctions.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms relating to the expungement of protective orders and stalking
- 13 injunctions;
- 14 ▶ makes statutory provisions for the expungement of protective orders and stalking
- 15 injunctions retroactive;
- 16 ▶ allows for the expungement of certain protective orders and stalking injunctions;
- 17 ▶ provides the requirements for expunging certain protective orders and stalking
- 18 injunctions;
- 19 ▶ addresses the distribution and effect of an order for expungement of certain
- 20 protective orders and stalking injunctions; and
- 21 ▶ makes technical and conforming changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**



28 ENACTS:

29 **78B-7-1001**, Utah Code Annotated 1953

30 **78B-7-1002**, Utah Code Annotated 1953

31 **78B-7-1003**, Utah Code Annotated 1953

32 **78B-7-1004**, Utah Code Annotated 1953



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

35 Section 1. Section **78B-7-1001** is enacted to read:

36 **Part 10. Expungement of Protective Orders and Stalking Injunctions**

37 **78B-7-1001. Definitions.**

38 (1) "Agency" means a state, county, or local government entity that generates or
39 maintains records relating to a civil order for which expungement may be ordered.

40 (2) "Civil order" means:

41 (a) an ex parte civil protective order;

42 (b) an ex parte civil stalking injunction;

43 (c) a civil protective order; or

44 (d) a civil stalking injunction.

45 (3) "Expunge" means to seal or otherwise restrict access to an individual's record held
46 by an agency when the record includes a civil order.

47 (4) "Petitioner" means an individual petitioning for expungement of a civil order under
48 this part.

49 Section 2. Section **78B-7-1002** is enacted to read:

50 **78B-7-1002. Retroactive application.**

51 The provisions of this part apply retroactively to all civil orders issued before, on, or
52 after May 4, 2022.

53 Section 3. Section **78B-7-1003** is enacted to read:

54 **78B-7-1003. Requirements for expungement of protective order or stalking**
55 **injunction.**

56 (1) (a) An individual against whom a civil order is sought may petition the court to
57 expunge records of the civil order.

58 (b) A petition under Subsection (1) shall be filed in accordance with the Utah Rules of

59 Civil Procedure.

60 (2) (a) The petitioner shall mail a copy of the petition, by first-class mail within 10
61 days after the day on which the petition is filed, to the individual whom filed the civil order
62 against the petitioner.

63 (b) The individual who filed the civil order against the petitioner:

64 (i) may file a written objection with the court within 30 days after the day on which the
65 petition is received by the individual; and

66 (ii) if the individual files a written objection, provide a copy of the written objection to
67 the petitioner.

68 (c) If the court receives a written objection to the petition for expungement of a civil
69 order, the court shall:

70 (i) set a date for a hearing on the petition;

71 (ii) provide notice at least 30 days before the day on which the hearing is held to:

72 (A) all parties of the civil order; and

73 (B) any other person or agency that the court has reason to believe may have relevant
74 information related to the expungement of the civil order.

75 (d) The petitioner may respond, in writing, to any written objection within 14 days after
76 the day on which the written objection is received by the court.

77 (3) If no written objection is received within 60 days from the day on which the
78 petition for expungement is filed under Subsection (1), the court may grant the expungement in
79 accordance with Subsection (4) without a hearing.

80 (4) (a) A court may expunge an ex parte civil protective order or an ex parte civil
81 stalking injunction if:

82 (i) the ex parte civil protective order or the ex parte civil stalking injunction was issued
83 but:

84 (A) the court dismissed the ex parte civil protective order or the ex parte civil stalking
85 injunction upon a hearing by the court;

86 (B) the court did not issue a civil stalking injunction or a civil stalking injunction on
87 the same circumstances for which the ex parte civil protective order or the ex parte civil
88 stalking injunction was issued; and

89 (C) at least 30 days have passed from the day on which the ex parte civil protective

90 order or the ex parte civil stalking injunction was issued; or

91 (ii) (A) the individual who filed the ex parte civil protective order or the ex parte civil
92 stalking injunction failed to appear for the hearing on the ex parte civil protective order or ex
93 parte civil stalking injunction; and

94 (B) at least 30 days have passed from the day on which the hearing on the ex parte civil
95 protective order or the ex parte civil stalking injunction was set to occur, including any
96 continuance, postponement, or rescheduling of the hearing.

97 (b) A court may expunge a civil protective order or a civil stalking injunction if:

98 (i) the civil protective order or the civil stalking injunction has been vacated; and

99 (ii) three years have passed from the day on which the order to vacate was entered.

100 Section 4. Section **78B-7-1004** is enacted to read:

101 **78B-7-1004. Distribution and effect of order of expungement - Penalty.**

102 (1) An individual who receives an order of expungement under Section [78B-7-1003](#)
103 shall be responsible for delivering a copy of the order of expungement to any affected agency.

104 (2) Upon receipt of an order of expungement as described in Subsection (1), an agency
105 shall expunge all records described in the expungement order that are under the control of the
106 agency.

107 (3) Upon entry of an expungement order by a court under Section [78B-7-1004](#):

108 (a) the civil order is considered to never have occurred; and

109 (b) the petitioner may reply to an inquiry on the matter as though there was never a
110 civil order.

111 (4) (a) Unless ordered by a court to do so, an agency or official may not divulge
112 information or records that have been expunged under this part.

113 (b) An expungement order may not restrict an agency's use or dissemination of records
114 in the agency's ordinary course of business until the agency has received a copy of the
115 expungement order.

116 (c) Any action taken by an agency after issuance of the expungement order but before
117 the agency's receipt of a copy of the expungement order may not be invalidated by the order.

118 (5) An expungement order under this part may not:

119 (a) terminate or invalidate any pending administrative proceedings or actions of which
120 the individual had notice according to the records of the administrative body before issuance of

121 the expungement order;

122 (b) affect the enforcement of any order or findings issued by an administrative body
123 pursuant to the administrative body's lawful authority prior to issuance of the expungement
124 order; or

125 (c) prevent an agency from maintaining, sharing, or distributing any record required by
126 law.

127 (6) An employee or agent of an agency that is prohibited from disseminating
128 information from an expunged record under this section who knowingly or intentionally
129 discloses identifying information from the expunged record, unless allowed by law, is guilty of
130 a class A misdemeanor.

131 (7) Records expunged under this part may be released to, or viewed by, the following
132 individuals:

133 (a) the petitioner; or

134 (b) parties to a civil action arising out of the expunged civil order, providing the
135 information is kept confidential and utilized only in the action.