

WORKPLACE VIOLENCE PROTECTIVE ORDERS

AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tyler Clancy

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill creates a workplace violence protective order.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows an employer to petition for a workplace violence protective order;
- ▶ requires an employer to notify certain individuals when seeking a workplace violence protective order;
- ▶ establishes relief a court may include as part of a workplace violence protective order;
- ▶ requires a court to take certain action after issuing a workplace violence protective order;
- ▶ establishes circumstances under which a court may modify or vacate a workplace violence protective order;
- ▶ requires a court to set a date for a hearing on a workplace violence protective order within a certain time period;
- ▶ establishes provisions related to the service, expiration, modification, and extension of a workplace violence protective order;
- ▶ provides a penalty for violating a workplace violence protective order;
- ▶ limits liability of an employer for seeking or failing to seek a workplace violence

protective order; and

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

78B-7-102, as last amended by Laws of Utah 2022, Chapters 142, 430

ENACTS:

78B-7-1101, Utah Code Annotated 1953

78B-7-1102, Utah Code Annotated 1953

78B-7-1103, Utah Code Annotated 1953

78B-7-1104, Utah Code Annotated 1953

78B-7-1105, Utah Code Annotated 1953

78B-7-1106, Utah Code Annotated 1953

78B-7-1107, Utah Code Annotated 1953

78B-7-1108, Utah Code Annotated 1953

78B-7-1109, Utah Code Annotated 1953

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

Section 1. Section **78B-7-102** is amended to read:

78B-7-102. Definitions.

As used in this chapter:

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

(2) "Affinity" means the same as that term is defined in Section 76-1-101.5.

(3) "Civil protective order" means an order issued, subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice, under:

(a) Part 2, Child Protective Orders;

(b) Part 4, Dating Violence Protective Orders;

(c) Part 5, Sexual Violence Protective Orders; ~~[or]~~

(d) Part 6, Cohabitant Abuse Protective Orders~~[-];~~ or

(e) Part 11, Workplace Violence Protective Orders.

(4) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil Stalking Injunctions.

(5) (a) "Cohabitant" means an emancipated individual under Section 15-2-1 or an individual who is 16 years old or older who:

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

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

(iii) is related by blood or marriage to the other party as the individual's parent, grandparent, sibling, or any other individual related to the individual by consanguinity or affinity to the second degree;

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

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

(vi) resides or has resided in the same residence as the other party; or

(vii) is or was in a consensual sexual relationship with the other party.

(b) "Cohabitant" does not include:

(i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or

(ii) the relationship between natural, adoptive, step, or foster siblings who are under 18 years old.

(6) "Consanguinity" means the same as that term is defined in Section 76-1-101.5.

(7) "Criminal protective order" means an order issued under Part 8, Criminal Protective

83 Orders.

84 (8) "Criminal stalking injunction" means a stalking injunction issued under Part 9,
85 Criminal Stalking Injunctions.

86 (9) "Court clerk" means a district court clerk.

87 (10) (a) "Dating partner" means an individual who:

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

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

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

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

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

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

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

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

101 (A) whether the parties developed interpersonal bonding above a mere casual
102 fraternization;

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

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

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

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

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

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

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

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

(a) Part 2, Child Protective Orders;

(b) Part 4, Dating Violence Protective Orders;

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

(d) Part 6, Cohabitant Abuse Protective Orders~~[-]~~; or

(e) Part 11, Workplace Violence Protective Orders.

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

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

(16) "Household animal" means an animal that is tamed and kept as a pet.

(17) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.

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

(19) "Peace officer" means those individuals specified in Title 53, Chapter 13, Peace Officer Classifications.

(20) "Qualifying domestic violence offense" means the same as that term is defined in Section 77-36-1.1.

(21) "Respondent" means the individual against whom enforcement of a protective order is sought.

(22) "Stalking" means the same as that term is defined in Section 76-5-106.5.

Section 2. Section 78B-7-1101 is enacted to read:

Part 11. Workplace Violence Protective Orders

78B-7-1101. Definitions.

As used in this part:

(1) "Employee" means an employee in the service of an employer for compensation.

(2) "Employer" means a person who employs an individual in this state.

(3) "Ex parte workplace violence protective order" means an order issued without notice to the respondent under this part.

(4) "Protective order" means:

(a) a workplace violence protective order; or

(b) an ex parte workplace violence protective order.

(5) "Workplace violence" means knowingly causing or threatening to cause bodily injury to, or significant damage to the property of, a person, if:

(a) the person is:

(i) an employer; or

(ii) an employee performing the employee's duties as an employee; and

(b) (i) the action would cause a reasonable person to feel terrorized, frightened, intimidated, or harassed; or

(ii) the threat:

(A) would cause a reasonable person to fear that the threat will be carried out; and

(B) if carried out, would cause a reasonable person to feel terrorized, frightened, intimidated, or harassed.

(6) "Workplace violence protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.

Section 3. Section 78B-7-1102 is enacted to read:

78B-7-1102. Petition for a workplace violence protective order -- Notice to known

164 **targets of workplace violence.**

165 (1) An employer may seek, or authorize an agent to seek, a protective order in
166 accordance with this part, if the employer reasonably believes workplace violence has occurred
167 against the employer or an employee of the employer.

168 (2) If an employer seeking a workplace violence protective order as described in
169 Subsection (1) has knowledge that a specific individual is the target of workplace violence, the
170 employer shall make a good faith effort to notify the targeted individual that the employer is
171 seeking a workplace violence protective order.

172 Section 4. Section **78B-7-1103** is enacted to read:

173 **78B-7-1103. Workplace violence protective orders -- Ex parte workplace violence**
174 **protective orders -- Modification of orders -- Evidence in another lawsuit.**

175 (1) If it appears from a petition for a protective order or a petition to modify an existing
176 protective order that workplace violence has occurred, the court may:

177 (a) without notice, immediately issue an ex parte workplace violence protective order
178 against the respondent or modify an existing workplace violence protective order ex parte, if
179 necessary to protect the petitioner or any party named in the petition; or

180 (b) upon notice to the respondent, issue a workplace violence protective order or
181 modify a workplace violence protective order after a hearing, regardless of whether the
182 respondent appears.

183 (2) (a) The court may grant the following relief with or without notice or a hearing in a
184 protective order or in a modification to a protective order:

185 (i) enjoin the respondent from committing workplace violence;

186 (ii) enjoin the respondent from threatening the petitioner or an employee of the
187 petitioner while performing the employee's duties as an employee; or

188 (iii) subject to Subsection (2)(c), order that the respondent is excluded and shall stay
189 away from the petitioner's workplace.

190 (b) Except as provided in Subsection (2)(a), a protective order may not restrict the

respondent's communications.

(c) The court shall narrowly tailor an order described in Subsection (2)(a)(iii) to the location where the respondent caused or threatened to cause bodily injury to, or significant damage to property of, the petitioner or an employee of the petitioner.

(3) After the court issues a protective order, the court shall:

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

(b) transmit electronically, by the end of the business day after the day on which the court issues the protective order, a copy of the protective order to the local law enforcement agency that the petitioner designates; and

(c) transmit a copy of the protective order in the same manner as described in Section 78B-7-113.

(4) The court may modify or vacate a protective order after notice and hearing, if the petitioner:

(a) (i) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure; and

(ii) appears before the court to give specific consent to the modification or vacation of the provisions of the protective order; or

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

(5) The existence of a protective order may not be used as evidence of liability or damages in a lawsuit between the petitioner and the respondent regardless of whether the petitioner or respondent seeks to admit the facts underlying the protective order as evidence.

Section 5. Section 78B-7-1104 is enacted to read:

78B-7-1104. Hearings -- Expiration.

(1) (a) A court shall set a date for a hearing on the petition to be held within 21 days after the day on which the court issues an ex parte workplace violence protective order.

(b) If, at the hearing described in Subsection (1)(a), the court does not issue a

workplace violence protective order, the ex parte workplace violence protective order expires on the day on which the hearing is held, unless the court extends the ex parte workplace violence protective order.

(c) Subject to Subsection (1)(d), a court may not extend an ex parte workplace violence protective order beyond 21 days after the day on which the court issues the ex parte workplace violence protective order, unless:

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

(ii) the respondent has not been served; or

(iii) exigent circumstances exist.

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

(e) A workplace violence protective order issued after notice and a hearing remains in effect for a period the court determines, not to exceed 18 months after the day on which the court issues the order, unless the order is extended in accordance with Section [78B-7-1105](#).

(f) (i) If the hearing on the petition is heard by a commissioner, either the petitioner or respondent may file an objection within 10 calendar days after the day on which the commissioner enters the recommended order.

(ii) If a party files an objection as described in Subsection (1)(f)(i), the judge shall hold a hearing on the objection within 21 days after the day on which the party files the objection.

(2) (a) If a court denies a petition for an ex parte workplace violence protective order or a petition to modify a workplace violence protective order ex parte, the petitioner may, within five days after the day on which the court denies the petition, request a hearing.

(b) If the petitioner requests a hearing as described in Subsection (2)(a), the court shall:

(i) set a hearing to be held within 21 days after the day on which the petitioner makes the request; and

(ii) notify and serve the respondent.

Section 6. Section **78B-7-1105** is enacted to read:

78B-7-1105. Extension.

(1) A workplace violence protective order expires automatically, unless the petitioner:

(a) files a motion before the day on which the workplace violence protective order expires; and

(b) demonstrates that:

(i) there is a substantial likelihood that the petitioner an employee of the petitioner while performing the employee's duties as an employee; or

(ii) the respondent committed or was convicted of a violation of the workplace violence protective order that the petitioner requests be extended.

(2) (a) Subject to Subsection (2)(b), if a court grants a motion described in Subsection (1)(a), the court shall set a new date on which the workplace violence protective order expires.

(b) A court may not extend a workplace violence protective order for more than 18 months after the day on which the court issues the order for extension.

(3) After the day on which the court issues an extension of a workplace violence protective order, the court shall take the action described in Subsection [78B-7-1103\(3\)](#).

(4) This part does not prohibit a petitioner from seeking another protective order after the day on which the petitioner's protective order expires.

Section 7. Section **78B-7-1106** is enacted to read:

78B-7-1106. Service of process.

(1) The county sheriff that receives an order from a court under Subsection [78B-7-1103\(3\)](#) or [78B-7-1105\(3\)](#), shall:

(a) provide expedited service for the protective order; and

(b) after the protective order is served, transmit verification of service of process to the statewide network described in Section [78B-7-113](#).

(2) This section does not prohibit another law enforcement agency from providing

272 service of process if the law enforcement agency:

273 (a) has contact with the respondent; or

274 (b) determines that, under the circumstances, providing service of process on the
275 respondent is in the best interest of the petitioner.

276 Section 8. Section **78B-7-1107** is enacted to read:

277 **78B-7-1107. Penalties.**

278 A violation of a protective order issued under this part is a class A misdemeanor.

279 Section 9. Section **78B-7-1108** is enacted to read:

280 **78B-7-1108. Employer liability.**

281 (1) An employer is immune from civil liability for:

282 (a) seeking a workplace violence protective order, if the employer acts in good faith in
283 seeking the order; or

284 (b) failing to seek a workplace violence protective order.

285 (2) An employer's action or statement made under this part:

286 (a) is not an admission of any fact; and

287 (b) may be used for purposes of impeachment.

288 Section 10. Section **78B-7-1109** is enacted to read:

289 **78B-7-1109. Limitations of part.**

290 This part does not:

291 (1) modify the duty of an employer to provide a safe workplace for the employees of
292 the employer;

293 (2) prohibit a person from engaging in constitutionally protected exercise of free
294 speech, including non-threatening speech and speech involving labor disputes concerning
295 organized labor; or

296 (3) prohibit a person from engaging in an activity that is part of a labor dispute.

297 Section 11. **Effective date.**

298 This bill takes effect on July 1, 2023.

