

Senator Todd D. Weiler proposes the following substitute bill:

WORKPLACE VIOLENCE PROTECTIVE ORDERS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: _____

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 within a certain time period;
- ▶ establishes provisions related to the expiration, modification, and extension of a workplace violence protective order;
- ▶ establishes provisions related to the service of process of a workplace violence protective order;



- 27 ▶ makes violating a workplace violence protective order a class A misdemeanor;
- 28 ▶ limits liability of employer under certain circumstances; and
- 29 ▶ limits applicability of Title 78B, Chapter 7, Part 10, Workplace Violence Protective
- 30 Orders.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **78B-7-102**, as last amended by Laws of Utah 2020, Chapters 142 and 287

38 ENACTS:

39 **78B-7-1001**, Utah Code Annotated 1953

40 **78B-7-1002**, Utah Code Annotated 1953

41 **78B-7-1003**, Utah Code Annotated 1953

42 **78B-7-1004**, Utah Code Annotated 1953

43 **78B-7-1005**, Utah Code Annotated 1953

44 **78B-7-1006**, Utah Code Annotated 1953

45 **78B-7-1007**, Utah Code Annotated 1953

46 **78B-7-1008**, Utah Code Annotated 1953

47 **78B-7-1009**, Utah Code Annotated 1953



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

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

51 **78B-7-102. Definitions.**

52 As used in this chapter:

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

56 (2) "Affinity" means the same as that term is defined in Section **76-1-601**.

57 (3) "Civil protective order" means an order issued, subsequent to a hearing on the

58 petition, of which the petitioner and respondent have been given notice, under:

- 59 (a) Part 2, Child Protective Orders;
60 (b) Part 4, Dating Violence Protective Orders;
61 (c) Part 5, Sexual Violence Protective Orders; [or]
62 (d) Part 6, Cohabitant Abuse Protective Orders[-]; or
63 (e) Part 10, Workplace Violence Protective Orders.

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

66 (5) (a) "Cohabitant" means an emancipated individual under Section 15-2-1 or an
67 individual who is 16 years [~~of age~~] old or older who:

- 68 (i) is or was a spouse of the other party;
69 (ii) is or was living as if a spouse of the other party;
70 (iii) is related by blood or marriage to the other party as the individual's parent,
71 grandparent, sibling, or any other individual related to the individual by consanguinity or affinity
72 to the second degree;
73 (iv) has or had one or more children in common with the other party;
74 (v) is the biological parent of the other party's unborn child;
75 (vi) resides or has resided in the same residence as the other party; or
76 (vii) is or was in a consensual sexual relationship with the other party.

77 (b) "Cohabitant" does not include:

- 78 (i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or
79 (ii) the relationship between natural, adoptive, step, or foster siblings who are under 18
80 years [~~of age~~] old.

81 (6) "Consanguinity" means the same as that term is defined in Section 76-1-601.

82 (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 78A, Chapter 6, Part
89 8, Emancipation; or

90 (B) is 18 years [~~of age~~] 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 relationship
99 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
110 (F) whether other reasons exist that support or detract from a finding that a dating
111 relationship exists; and
112 (ii) it is not necessary that all, or a particular number, of the factors described in
113 Subsection (11)(c)(i) are found to support the existence of a dating relationship.
114 (12) "Domestic violence" means the same as that term is defined in Section [77-36-1](#).
115 (13) "Ex parte civil protective order" means an order issued without notice to the
116 respondent under:
117 (a) Part 2, Child Protective Orders;
118 (b) Part 4, Dating Violence Protective Orders;
119 (c) Part 5, Sexual Violence Protective Orders; [~~or~~]
120 (d) Part 6, Cohabitant Abuse Protective Orders[~~;~~]; or
121 (e) Part 10, Workplace Violence Protective Orders.

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

124 (15) "Foreign protection order" means the same as that term is defined in Section
125 78B-7-302.

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

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

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

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

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

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

137 Section 2. Section 78B-7-1001 is enacted to read:

138 **Part 10. Workplace Violence Protective Orders**

139 **78B-7-1001. Definitions.**

140 As used in this part:

141 (1) "Employer" means a person that:

142 (a) employs an individual in this state; or

143 (b) contracts with an independent contractor in this state.

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

146 (3) "Protective order" means:

147 (a) a workplace violence protective order; or

148 (b) an ex parte workplace violence protective order.

149 (4) (a) "Worker" means an individual in the service of an employer for compensation.

150 (b) "Worker" includes an independent contractor who contracts with an employer.

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

153 (a) the person is:

- 154 (i) an employer;
- 155 (ii) a worker performing the worker's duties as a worker; or
- 156 (iii) a person present at the workplace of an employer; and
- 157 (b) (i) the action would cause a reasonable person to feel terrorized, frightened,
- 158 intimidated, or harassed; or
- 159 (ii) the threat:
- 160 (A) would cause a reasonable person to fear that the threat will be carried out; and
- 161 (B) if carried out, would cause a reasonable person to feel terrorized, frightened,
- 162 intimidated, or harassed.
- 163 (6) "Workplace violence protective order" means an order issued under this part after a
- 164 hearing on the petition, of which the petitioner and respondent have been given notice.

165 Section 3. Section **78B-7-1002** is enacted to read:

166 **78B-7-1002. Petition for a workplace violence protective order -- Notice to known**

167 **targets of workplace violence.**

168 (1) An employer may seek, or authorize an agent to seek, a protective order in

169 accordance with this part, if the employer reasonably believes workplace violence has occurred

170 against the employer, a worker of the employer, or a person while the person was present at the

171 workplace of the employer.

172 (2) If an employer seeking a workplace violence protective order as described in

173 Subsection (1) has knowledge that a specific individual is the target of workplace violence, the

174 employer shall make a good faith effort to notify the individual that the employer is seeking a

175 workplace violence protective order.

176 Section 4. Section **78B-7-1003** is enacted to read:

177 **78B-7-1003. Workplace violence protective orders -- Ex parte workplace violence**

178 **protective orders -- Modification of orders.**

179 (1) If it appears from a petition for a protective order or a petition to modify an existing

180 protective order that workplace violence has occurred, the court may:

181 (a) without notice, immediately issue an ex parte workplace violence protective order

182 against the respondent or modify an existing workplace violence protective order ex parte, if

183 necessary to protect the petitioner or any party named in the petition; or

184 (b) upon notice to the respondent, issue a workplace violence protective order or

185 modify a workplace violence protective order after a hearing, regardless of whether the

186 respondent appears.

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

189 (a) enjoin the respondent from committing workplace violence;

190 (b) enjoin the respondent from harassing the petitioner, a worker of the petitioner while
191 performing the worker's duties as a worker, or any person while the person is present at the
192 workplace of the petitioner;

193 (c) prohibit the respondent from telephoning, contacting, or otherwise communicating
194 with the petitioner, a worker of the petitioner while performing the worker's duties as a worker,
195 or any person while the person is present at the workplace of the petitioner; or

196 (d) order that the respondent is excluded and shall stay away from the petitioner's
197 workplace.

198 (3) The court may grant the following relief in a protective order or in a modification to
199 a protective order, after notice and a hearing, regardless of whether the respondent appears:

200 (a) any relief described in Subsection (2); and

201 (b) the relief described in Subsections [78B-7-404\(3\)\(b\)](#):

202 (i) upon a finding that the respondent poses a serious threat of harm to the petitioner, a
203 worker of the petitioner while performing the worker's duties as a worker, or any other person
204 while the person is present at the workplace of the employer; and

205 (ii) subject to the conditions under Subsection [78B-7-404\(5\)](#).

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

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

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

211 (c) transmit a copy of the protective order in the same manner as described in Section
212 [78B-7-113](#).

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

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

217 (ii) appears before the court to give specific consent to the modification or vacation of

218 the provisions of the protective order; or

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

221 Section 5. Section **78B-7-1004** is enacted to read:

222 **78B-7-1004. Hearings -- Expiration.**

223 (1) (a) A court shall set a date for a hearing on the petition to be held within 20 days
224 after the day on which the court issues an ex parte workplace violence protective order.

225 (b) If, at the hearing described in Subsection (1)(a), the court does not issue a workplace
226 violence protective order, the ex parte workplace violence protective order expires on the day
227 on which the hearing is held, unless the court extends the ex parte workplace violence protective
228 order.

229 (c) Subject to Subsection (1)(d), a court may not extend an ex parte workplace violence
230 protective order beyond 20 days after the day on which the court issues the ex parte workplace
231 violence protective order, unless:

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

234 (ii) the respondent has not been served; or

235 (iii) exigent circumstances exist.

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

239 (e) A workplace violence protective order issued after notice and a hearing remains in
240 effect for a period the court determines, not to exceed 18 months after the day on which the court
241 issues the order, unless the order is extended in accordance with Section [78B-7-1005](#).

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

245 (ii) If a party files an objection as described in Subsection (1)(f)(i), the assigned judge
246 shall hold a hearing on the objection within 20 days after the day on which the party files the
247 objection.

248 (2) (a) If a court denies a petition for an ex parte workplace violence protective order or
249 a petition to modify a workplace violence protective order ex parte, the petitioner may, within

250 five days after the day on which the court denies the petition, request a hearing.

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

252 (i) set a hearing to be held within 20 days after the day on which the petitioner makes the
253 request; and

254 (ii) notify and serve the respondent.

255 Section 6. Section **78B-7-1005** is enacted to read:

256 **78B-7-1005. Extension.**

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

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

260 (b) demonstrates that:

261 (i) there is a substantial likelihood that the petitioner, a worker of the petitioner while
262 performing the worker's duties as a worker, or a person while the person is present at the
263 workplace of the petitioner will be subjected to workplace violence; or

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

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

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

270 (3) After the day on which the court issues an extension of a workplace violence
271 protective order, the court shall take the action described in Subsection [78B-7-1003\(5\)](#).

272 (4) Nothing in this part prohibits a petitioner from seeking another protective order after
273 the day on which the petitioner's protective order expires.

274 Section 7. Section **78B-7-1006** is enacted to read:

275 **78B-7-1006. Service of process.**

276 (1) The county sheriff that receives an order from a court under Subsection
277 [78B-7-1003\(5\)](#) or [78B-7-1005\(3\)](#), shall:

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

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

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

282 service of process if the law enforcement agency:

283 (a) has contact with the respondent; or

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

286 Section 8. Section **78B-7-1007** is enacted to read:

287 **78B-7-1007. Penalties.**

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

289 Section 9. Section **78B-7-1008** is enacted to read:

290 **78B-7-1008. Employer liability.**

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

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

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

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

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

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

298 Section 10. Section **78B-7-1009** is enacted to read:

299 **78B-7-1009. Limitations of part.**

300 Nothing in this part:

301 (1) modifies the duty of an employer to provide a safe workplace for the workers of the
302 employer and persons present at the workplace of the employer;

303 (2) prohibits a person from engaging in constitutionally protected exercise of free
304 speech, including speech involving labor disputes concerning organized labor; or

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