

28 **77-3a-101. Temporary stalking injunction -- Petition.**

29 (1) As used in this chapter, "stalking" means the crime of stalking as defined in Section
30 76-5-106.5.

31 (2) Any person who believes that they are the victim of stalking may file a petition with
32 the district court in the district in which the petitioner resides or in which any of the events
33 occurred for a temporary injunction against the alleged stalker. A minor may file a petition on
34 their own, or a parent, guardian, or custodian may file a petition on the minor's behalf.

35 (3) The petition shall state:

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

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

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

43 (d) if there is a prior court order concerning the same conduct, the name of the court in
44 which the order was rendered.

45 (4) If the court determines that there is reason to believe that an offense of stalking has
46 occurred, an ex parte temporary injunction may be issued by the court that includes any of the
47 following:

48 (a) either or both parties may be enjoined from committing stalking;

49 (b) either or both parties may be restrained from coming near the residence, place of
50 employment, or school of the other party or specifically designated locations or persons; or

51 (c) relief necessary or convenient for the protection of the petitioner and other specifically
52 designated persons under the circumstances.

53 (5) Any time during the period in which the temporary stalking injunction is in effect, the
54 respondent is entitled to one hearing upon written request.

55 (a) A hearing requested by the respondent shall be held within ten days from the date the
56 request is filed with the court unless the court finds compelling reasons to continue the hearing.
57 The hearing shall then be held at the earliest possible time.

58 (b) An ex parte temporary stalking injunction issued under this section shall state on its

59 face:

60 (i) that the respondent is entitled to a hearing upon written request; and

61 (ii) the name and address of the district court where the request may be filed.

62 (c) At the hearing, the court may modify, revoke, or continue the injunction.

63 (6) The temporary stalking injunction shall include the following statement: "Warning.

64 This is an official court order. If you disobey this order, the court may find you in contempt. You
65 may also be arrested and prosecuted for the crime of stalking and any other crime you may have
66 committed in disobeying this order."

67 (7) The temporary stalking injunction shall be served on the respondent within one year
68 from the date it is signed. A temporary stalking injunction is effective upon service and expires,
69 unless renewed, six months after service of the original temporary stalking injunction.

70 (8) Within 24 hours after the affidavit or acceptance of service has been returned,
71 excluding weekends and holidays, the clerk of the court from which the temporary stalking
72 injunction was issued shall enter a copy of the temporary stalking injunction and proof of service
73 or acceptance of service in the statewide network for warrants or a similar system.

74 (a) The effectiveness of a temporary stalking injunction does not depend upon its entry in
75 the statewide system and, for enforcement purposes, a certified copy of a temporary stalking
76 injunction is presumed to be a valid existing order of the court for a period of six months from the
77 date of service of the temporary stalking injunction on the respondent.

78 (b) Any changes, renewals, or modifications of the temporary stalking injunction are
79 effective on entry by the court and shall be entered into the statewide system within 24 hours of
80 the entry, excluding weekends and holidays.

81 (9) The temporary stalking injunction may be dissolved at any time upon application of
82 the petitioner to the court which granted it.

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

86 (11) After a hearing with notice to the affected party, the court may enter an order
87 requiring any party to pay the costs of the action, including reasonable attorney's fees.

88 (12) This chapter does not apply to protective orders or ex parte protective orders issued
89 pursuant to Title 30, Chapter 6, Cohabitant Abuse Act, or to preliminary injunctions issued

90 pursuant to an action for dissolution of marriage or legal separation.

91 Section 3. Section **77-3a-102** is enacted to read:

92 **77-3a-102. Renewal procedure.**

93 (1) A person may file an application for ex parte renewal of the temporary stalking
94 injunction with the district court that issued the original injunction. The renewal application shall
95 be filed within 30 days prior to the expiration date of the original injunction.

96 (2) Notice of the renewal of the temporary stalking injunction shall be served on the
97 respondent, and include the following statements:

98 (a) the petitioner has applied for a renewal of the temporary stalking injunction;

99 (b) the respondent has a right to request in writing a hearing on the renewal within ten days
100 of service;

101 (c) the name and address of the district court where the request may be filed; and

102 (d) if the respondent fails to request a hearing in writing within ten days of service, the
103 injunction will be automatically renewed for an additional six months and no further notice will
104 be given to the respondent.

105 (3) If the respondent requests a hearing in writing within ten days of service, the court shall
106 schedule a hearing within ten days of receipt of the request unless the court finds compelling
107 reasons to continue the hearing. The hearing shall then be held at the earliest possible time. At
108 the hearing, the burden is on the respondent to show good cause why the injunction should not be
109 renewed.

110 (4) The renewal notice shall be served on the respondent within six months from the
111 expiration date of the original temporary stalking injunction. A renewal notice that is not served
112 on the respondent within six months automatically expires at the end of the six months.

113 (5) If no hearing is requested by a respondent after service of notice, the temporary stalking
114 injunction is automatically renewed for a period of six months, starting from the tenth day after
115 service on the defendant, without further action of the court.

116 Section 4. Section **77-3a-103** is enacted to read:

117 **77-3a-103. Permanent stalking injunction.**

118 (1) A person may apply for a permanent stalking injunction if, after issuance of a
119 temporary stalking injunction, one or more renewals have been granted by the court.

120 (2) An application for a permanent stalking injunction shall consist of a filing for a

121 modification of a temporary stalking injunction to a permanent stalking injunction.

122 (3) Notice of the application shall be served on the respondent and state:

123 (a) that the petitioner has applied for a modification of the temporary stalking injunction
124 to a permanent stalking injunction;

125 (b) that the respondent has a right to request a hearing on the modification within ten days
126 of service;

127 (c) the name and address of the district court where the request may be filed;

128 (d) that if the respondent fails to request a hearing within ten days of service, the temporary
129 stalking injunction is automatically modified to a permanent stalking injunction without further
130 notice to the respondent; and

131 (e) that the respondent can make a written request at any time for a hearing to show cause
132 to dissolve or modify the permanent stalking injunction.

133 (4) The modification for a permanent stalking injunction notice shall be served on the
134 respondent within one year from the expiration date of the last renewal of the original temporary
135 stalking injunction. A modification notice that is not served on the respondent within one year
136 expires.

137 (5) If a hearing is requested by the respondent within ten days after service, the court shall
138 set a hearing within ten days from the date the request is filed unless the court finds compelling
139 reasons to continue the hearing. The hearing shall be held at the earliest possible time. At the
140 hearing, the burden is on the respondent to show good cause why the injunction should not be
141 modified to a permanent stalking injunction.

142 (6) If no hearing is requested by the respondent or the respondent fails to appear at the
143 hearing, the temporary stalking injunction is automatically modified to a permanent stalking
144 injunction, effective from the tenth day after service on the respondent, without further action of
145 the court.

146 (7) If the respondent requests a hearing after the ten-day period after service, the court shall
147 set a hearing within a reasonable time from the date requested. At the hearing, the burden is on
148 the respondent to show good cause why the permanent injunction should be dissolved or modified.

149 (8) The permanent stalking injunction may be dissolved at any time upon application of
150 the petitioner to the court which granted the order.

151 Section 5. Section **77-3a-104** is enacted to read:

152 **77-3a-104. Fees -- Service of process.**

153 (1) The filing fee for a petition for a temporary stalking injunction under this chapter is
154 \$50.

155 (2) The filing fee for an application for a renewal of the temporary stalking injunction
156 under this chapter is \$30.

157 (3) The filing fee for an application for a modification of the temporary stalking injunction
158 to a permanent stalking injunction under this chapter is \$50.

159 (4) Temporary stalking injunctions, notices of renewal, and notices of modification shall
160 be served by a sheriff, constable, peace officer, or law enforcement officer in accordance with
161 applicable law.

162 (5) Fees for service shall be in accordance with applicable law.

163 Section 6. Section **77-3a-105** is enacted to read:

164 **77-3a-105. Enforcement.**

165 (1) A peace or law enforcement officer may, with or without a warrant, arrest a person if
166 the peace or law enforcement officer has probable cause to believe that the person has violated a
167 temporary or permanent stalking injunction issued pursuant to this chapter or has violated a
168 permanent criminal stalking injunction issued pursuant to Section 76-5-106.5, whether or not the
169 violation occurred in the presence of the officer.

170 (2) If a peace or law enforcement officer responds to a call alleging that stalking has been
171 or may be committed, the officer shall inform the potential victim in writing of the procedures and
172 resources available for the protection of the victim, including:

173 (a) a stalking injunction pursuant to this chapter;

174 (b) the emergency telephone number for the local police agency; and

175 (c) telephone numbers for emergency services in the local community.

176 (3) A peace or law enforcement officer making an arrest pursuant to this section or
177 enforcing an order of the court under this chapter or under Subsection 76-5 -106.5(6) is not civilly
178 or criminally liable for noncompliance with Subsection (2).

179 (4) A violation of a stalking injunction issued pursuant to this chapter constitutes the
180 criminal offense of stalking as defined in Section 76-5-106.5 and is also a violation of the stalking
181 injunction. Violations may be enforced by a civil action initiated by the petitioner, a criminal
182 action initiated by a prosecuting attorney, or both.

183 Section 7. **Effective date.**

184 This act takes effect on July 1, 1999.

Legislative Review Note
as of 1-19-99 8:50 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel