

CIVIL STALKING AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: LaWanna Shurtliff

This act modifies the Code of Criminal Procedure to create a civil stalking injunction and a procedure for having one issued by a court. This act provides for a filing fee for the petition, hearing requirements for both parties, and allows for renewal of the injunction under certain conditions. This act takes effect on July 1, 2001.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

21-1-5, as last amended by Chapters 149 and 323, Laws of Utah 2000

76-5-106.5, as last amended by Chapter 49, Laws of Utah 2000

77-3-1, as enacted by Chapter 15, Laws of Utah 1980

ENACTS:

77-3a-101, Utah Code Annotated 1953

77-3a-102, Utah Code Annotated 1953

77-3a-103, Utah Code Annotated 1953

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

Section 1. Section **21-1-5** is amended to read:

21-1-5. Civil fees of the courts of record -- Courts complex design.

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is \$120.

(b) The fee for filing a complaint or petition is:

(i) \$37 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$80 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;



28 (iii) \$120 if the claim for damages or amount in interpleader is \$10,000 or more; ~~h [f] and [f] h~~

29 (iv) \$80 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4,

30 Separate Maintenance ~~h [f] . [f] [;and] h~~

31 ~~h [(v) \$75 if the petition is for a civil stalking injunction under Title 77, Chapter 3a, Stalking~~

32 ~~Injunctions:] h~~

33 (c) The fee for filing a small claims affidavit is:

34 (i) \$37 if the claim for damages or amount in interpleader exclusive of court costs, interest,
35 and attorney fees is \$2,000 or less; and

36 (ii) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
37 interest, and attorney fees is greater than \$2,000.

38 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
39 complaint, or other claim for relief against an existing or joined party other than the original
40 complaint or petition is:

41 (i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000
42 or less;

43 (ii) \$60 if the claim for relief exclusive of court costs, interest, and attorney fees is greater
44 than \$2,000 and less than \$10,000;

45 (iii) \$90 if the original petition is filed under Subsection (1)(a), the claim for relief is
46 \$10,000 or more, or the party seeks relief other than monetary damages; and

47 (iv) \$60 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
48 Chapter 4, Separate Maintenance.

49 (e) The fee for filing a small claims counter affidavit is:

50 (i) \$35 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000
51 or less; and

52 (ii) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is greater
53 than \$2,000.

54 (f) The fee for depositing funds under Section 57-1-29 when not associated with an action
55 already before the court is determined under Subsection (1)(b) based on the amount deposited.

56 (g) The fee for filing a petition is:

57 (i) \$70 for trial de novo of an adjudication of the justice court or of the small claims
58 department; and

59 (ii) \$40 for an appeal of a municipal administrative determination in accordance with
60 Section 10-3-703.7.

61 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
62 petition for writ of certiorari is \$190.

63 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a petition
64 for expungement is \$50.

65 (ii) There is no fee for a petition filed under Subsection 77-18-10(2).

66 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
67 allocated to the Judges' Retirement Trust Fund, as provided in Title 49, Chapter 6, Judges'
68 Retirement Act.

69 (ii) Two dollars of the fees established by Subsections (1)(a) through (i) shall be allocated
70 by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account,
71 as provided in Section 63-63a-8.

72 (iii) One dollar of the fees established under Subsections (1)(a) through (e), (1)(g), and
73 (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in Section
74 78-31b-9.

75 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
76 United States is \$25.

77 (l) The fee for filing probate or child custody documents from another state is \$25.

78 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah
79 State Tax Commission is \$30.

80 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
81 or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing
82 officer of this state or of its political subdivisions other than the Utah State Tax Commission, is
83 \$40.

84 (n) The fee for filing a judgment by confession without action under Section 78-22-3 is
85 \$25.

86 (o) The fee for filing an award of arbitration for confirmation, modification, or vacation
87 under Title 78, Chapter 31a, Utah Arbitration Act, that is not part of an action before the court is
88 \$25.

89 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is \$30.

- 90 (q) The fee for filing any accounting required by law is:
- 91 (i) \$10 for an estate valued at \$50,000 or less;
- 92 (ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;
- 93 (iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;
- 94 (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and
- 95 (v) \$150 for an estate valued at more than \$168,000.
- 96 (r) The fee for filing a demand for a civil jury is \$50.
- 97 (s) The fee for filing a notice of deposition in this state concerning an action pending in
- 98 another state under Utah Rule of Civil Procedure 26 is \$25.
- 99 (t) The fee for filing documents that require judicial approval but are not part of an action
- 100 before the court is \$25.
- 101 (u) The fee for a petition to open a sealed record is \$25.
- 102 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$20 in addition
- 103 to any fee for a complaint or petition.
- 104 (w) The fee for a petition for authorization for a minor to marry required by Section 30-1-9
- 105 is \$5.
- 106 (x) The fee for a certificate issued under Section 26-2-25 is \$2.
- 107 (y) The fee for a certified copy of a document is \$2 per document plus 50 cents per page.
- 108 (z) The fee for an exemplified copy of a document is \$4 per document plus 50 cents per
- 109 page.
- 110 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of documents
- 111 and forms and for the search and retrieval of records under Title 63, Chapter 2, Government
- 112 Records Access and Management Act. Fees under this subsection shall be credited to the court
- 113 as a reimbursement of expenditures.
- 114 (bb) There is no fee for services or the filing of documents not listed in this section or
- 115 otherwise provided by law.
- 116 (cc) Except as provided in this section, all fees collected under this section are paid to the
- 117 General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts
- 118 the pleading for filing or performs the requested service.
- 119 (dd) The filing fees under this section may not be charged to the state, its agencies, or
- 120 political subdivisions filing or defending any action. In judgments awarded in favor of the state,

121 its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order
122 the filing fees and collection costs to be paid by the judgment debtor. The sums collected under
123 this subsection shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or
124 other penalty and costs permitted by law.

125 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts shall
126 transfer all revenues representing the difference between the fees in effect after May 2, 1994, and
127 the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities
128 Construction and Management Capital Projects Fund.

129 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
130 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the Capital
131 Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the
132 development of a courts complex in Salt Lake City.

133 (B) If the Legislature approves funding for construction of a courts complex in Salt Lake
134 City in the 1995 Annual General Session, the Division of Facilities Construction and Management
135 shall use the revenue deposited in the Capital Projects Fund under Subsection (2)(a)(ii) to construct
136 a courts complex in Salt Lake City.

137 (C) After the courts complex is completed and all bills connected with its construction
138 have been paid, the Division of Facilities Construction and Management shall use any monies
139 remaining in the Capital Projects Fund under Subsection (2)(a)(ii) to fund the Vernal District Court
140 building.

141 (iii) The Division of Facilities Construction and Management may enter into agreements
142 and make expenditures related to this project before the receipt of revenues provided for under this
143 Subsection (2)(a)(iii).

144 (iv) The Division of Facilities Construction and Management shall:

145 (A) make those expenditures from unexpended and unencumbered building funds already
146 appropriated to the Capital Projects Fund; and

147 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under
148 this Subsection (2).

149 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues
150 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
151 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted

152 account.

153 (c) The Division of Finance shall deposit all revenues received from the court
154 administrator into the restricted account created by this section.

155 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall transfer
156 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a
157 court of record to the Division of Facilities Construction and Management Capital Projects Fund.
158 The division of money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine
159 or bail forfeiture paid.

160 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer \$7
161 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court
162 of record or an administrative traffic proceeding in accordance with Section 10-3-703.5 to the
163 Division of Finance for deposit in the restricted account created by this section. The division of
164 money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine or bail forfeiture
165 paid.

166 (3) (a) There is created within the General Fund a restricted account known as the State
167 Courts Complex Account.

168 (b) The Legislature may appropriate monies from the restricted account to the
169 administrator of the courts for the following purposes only:

170 (i) to repay costs associated with the construction of the court complex that were funded
171 from sources other than revenues provided for under this Subsection (3)(b)(i); and

172 (ii) to cover operations and maintenance costs on the court complex.

173 Section 2. Section **76-5-106.5** is amended to read:

174 **76-5-106.5. Definitions -- Stalking -- Injunction -- Hearing.**

175 (1) As used in this section:

176 (a) "Course of conduct" means repeatedly maintaining a visual or physical proximity to
177 a person or repeatedly conveying verbal or written threats or threats implied by conduct or a
178 combination thereof directed at or toward a person.

179 (b) "Immediate family" means a spouse, parent, child, sibling, or any other person who
180 regularly resides in the household or who regularly resided in the household within the prior six
181 months.

182 (c) "Repeatedly" means on two or more occasions.

- 183 (2) A person is guilty of stalking who:
- 184 (a) intentionally or knowingly engages in a course of conduct directed at a specific person
- 185 that would cause a reasonable person:
- 186 (i) to fear bodily injury to himself or a member of his immediate family; or
- 187 (ii) to suffer emotional distress to himself or a member of his immediate family;
- 188 (b) has knowledge or should have knowledge that the specific person:
- 189 (i) will be placed in reasonable fear of bodily injury to himself or a member of his
- 190 immediate family; or
- 191 (ii) will suffer emotional distress or a member of his immediate family will suffer
- 192 emotional distress; and
- 193 (c) whose conduct:
- 194 (i) induces fear in the specific person of bodily injury to himself or a member of his
- 195 immediate family; or
- 196 (ii) causes emotional distress in the specific person or a member of his immediate family.
- 197 (3) A person is also guilty of stalking who intentionally or knowingly violates a stalking
- 198 injunction issued pursuant to Title 77, Chapter 3a, Stalking Injunctions, or intentionally or
- 199 knowingly violates a permanent criminal stalking injunction issued pursuant to this section.
- 200 (4) Stalking is a class A misdemeanor:
- 201 (a) upon the offender's first violation of Subsection (2); or
- 202 (b) if the offender violated a stalking injunction issued pursuant to Title 77, Chapter 3a,
- 203 Stalking Injunctions.
- 204 (5) Stalking is a third degree felony if the offender:
- 205 (a) has been previously convicted of an offense of stalking;
- 206 (b) has been convicted in another jurisdiction of an offense that is substantially similar to
- 207 the offense of stalking;
- 208 (c) has been previously convicted of any felony offense in Utah or of any crime in another
- 209 jurisdiction which if committed in Utah would be a felony, in which the victim of the stalking or
- 210 a member of the victim's immediate family was also a victim of the previous felony offense; or
- 211 (d) violated a permanent criminal stalking injunction issued pursuant to Subsection (7).
- 212 (6) Stalking is a felony of the second degree if the offender:
- 213 (a) used a dangerous weapon as defined in Section 76-1-601 or used other means or force

214 likely to produce death or serious bodily injury, in the commission of the crime of stalking;

215 (b) has been previously convicted two or more times of the offense of stalking;

216 (c) has been convicted two or more times in another jurisdiction or jurisdictions of
217 offenses that are substantially similar to the offense of stalking;

218 (d) has been convicted two or more times, in any combination, of offenses under
219 Subsection (5); or

220 (e) has been previously convicted two or more times of felony offenses in Utah or of
221 crimes in another jurisdiction or jurisdictions which, if committed in Utah, would be felonies, in
222 which the victim of the stalking was also a victim of the previous felony offenses.

223 (7) A conviction for stalking or a plea accepted by the court and held in abeyance for a
224 period of time shall operate as an application for a permanent criminal stalking injunction limiting
225 the contact of the defendant and the victim.

226 (a) A permanent criminal stalking injunction shall be issued without a hearing unless the
227 defendant requests a hearing at the time of the verdict, finding, or plea of guilty, guilty and
228 mentally ill, plea of no contest, or acceptance of plea in abeyance. The court shall give the
229 defendant notice of his right to request a hearing.

230 (i) If the defendant requests a hearing, it shall be held at the time of the verdict, finding,
231 or plea of guilty, guilty and mentally ill, plea of no contest, or acceptance of plea in abeyance
232 unless the victim requests otherwise, or for good cause.

233 (ii) If the verdict, finding, or plea of guilty, guilty and mentally ill, plea of no contest, or
234 acceptance of plea in abeyance was entered in a justice court, a certified copy of the judgment and
235 conviction or a certified copy of the court's order holding the plea in abeyance must be filed by the
236 victim in the district court as an application and request for hearing for a permanent criminal
237 stalking injunction.

238 (b) A permanent criminal stalking injunction may grant the following relief:

239 (i) an order restraining the defendant from entering the residence, property, school, or place
240 of employment of the victim and requiring the defendant to stay away from the victim and
241 members of the victim's immediate family or household and to stay away from any specified place
242 that is named in the order and is frequented regularly by the victim; and

243 (ii) an order restraining the defendant from making contact with the victim, including an
244 order forbidding the defendant from personally or through an agent initiating any communication

245 likely to cause annoyance or alarm, including personal, written, or telephone contact with the
246 victim, the victim's employers, employees, fellow workers, or others with whom communication
247 would be likely to cause annoyance or alarm to the victim.

248 (c) A permanent criminal stalking injunction may be dissolved upon application of the
249 victim to the court which granted the order.

250 (d) Notice of permanent criminal stalking injunctions issued pursuant to this section shall
251 be sent by the court to the statewide warrants network or similar system.

252 (e) A permanent criminal stalking injunction issued pursuant to this section shall be
253 effective statewide.

254 (f) Violation of an injunction issued pursuant to this section shall constitute an offense of
255 stalking. Violations may be enforced in a civil action initiated by the stalking victim, a criminal
256 action initiated by a prosecuting attorney, or both.

257 (g) Nothing in this section shall preclude the filing of a criminal information for stalking
258 based on the same act which is the basis for the violation of the stalking injunction issued pursuant
259 to Title 77, Chapter 3a, Stalking Injunctions, or permanent criminal stalking injunction.

260 Section 3. Section **77-3-1** is amended to read:

261 **77-3-1. Threatened offense -- Complaint.**

262 A complaint that a person has threatened to commit an offense against the person or
263 property of another, except in the case of stalking, may be made before any magistrate. Petitions
264 alleging the commission of stalking shall be handled pursuant to Title 77, Chapter 3a, Stalking
265 Injunctions.

266 Section 4. Section **77-3a-101** is enacted to read:

267 **CHAPTER 3a. STALKING INJUNCTIONS**

268 **77-3a-101. Civil stalking injunction -- Petition -- Ex parte injunction.**

269 (1) As used in this chapter, "stalking" means the crime of stalking as defined in Section
270 76-5-106.5. Stalking injunctions may not be obtained against law enforcement officers,
271 governmental investigators, or licensed private investigators, acting in their official capacity.

272 (2) Any person who believes that he or she is the victim of stalking may file a verified
273 written petition for a civil stalking injunction against the alleged stalker with the district court in
274 the district in which the petitioner or respondent resides or in which any of the events occurred.

275 A minor with his or her parent or guardian may file a petition on his or her own behalf, or a parent,

276 guardian, or custodian may file a petition on the minor's behalf.

277 (3) The Administrative Office of the Courts shall develop and adopt uniform forms for
278 petitions, ex parte civil stalking injunctions, civil stalking injunctions, service and any other
279 necessary forms in accordance with the provisions of this chapter on or before July 1.

279a h [2000] 2001 h . The
280 office shall provide the forms to the clerk of each district court.

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

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

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

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

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

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

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

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

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

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

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

304 (c) respondent may be restrained from contacting, directly or indirectly, the other party,
305 including personal, written or telephone contact with the other party, the other party's employers,
306 employees, fellow workers or others with whom communication would be likely to cause

307 annoyance or alarm to the other party; or

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

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

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

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

317 (i) that the respondent is entitled to a hearing, upon written request within ten days of the
318 service of the order;

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

320 (iii) that if the respondent fails to request a hearing within ten days of service, the ex parte
321 civil stalking injunction is automatically modified to a civil stalking injunction without further
322 notice to the respondent and that the civil stalking injunction expires three years after service of
323 the ex parte civil stalking injunction; and

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

326 (7) At the hearing, the court may modify, revoke, or continue the injunction. The burden
327 is on the respondent to show good cause why the civil stalking injunction should be dissolved or
328 modified.

329 (a) If the court finds that the respondent has shown good cause, then the burden is on the
330 petitioner to show by a preponderance of the evidence that stalking of the petitioner by the
331 respondent has occurred.

332 (b) If the court finds that the respondent has failed to show good cause why the civil
333 stalking injunction should be dissolved or modified, then the civil stalking injunction shall
334 continue in effect.

335 (8) The ex parte civil stalking injunction and civil stalking injunction shall include the
336 following statement: "Attention. This is an official court order. If you disobey this order, the court
337 may find you in contempt. You may also be arrested and prosecuted for the crime of stalking and

338 any other crime you may have committed in disobeying this order."

339 (9) The ex parte civil stalking injunction shall be served on the respondent within 90 days
340 from the date it is signed. An ex parte civil stalking injunction is effective upon service. If no
341 hearing is requested in writing by the respondent within ten days of service of the ex parte civil
342 stalking injunction, the ex parte civil stalking injunction automatically becomes a civil stalking
343 injunction without further notice to the respondent and expires three years from the date of service
344 of the ex parte civil stalking injunction.

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

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

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

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

361 (12) Within 24 hours after the affidavit or acceptance of service has been returned,
362 excluding weekends and holidays, the clerk of the court shall enter a copy of the changed or
363 modified civil stalking injunction and proof of service or acceptance of service in the statewide
364 network for warrants or a similar system.

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

367 (14) The court clerk shall provide, without charge, to the petitioner one certified copy of
368 the injunction issued by the court and one certified copy of the proof of service of the injunction

369 on the respondent. Charges may be imposed by the clerk's office for any additional copies,
 370 certified or not certified in accordance with Rule 4-202.08 of the Code of Judicial Administration.

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

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

376 (17) This chapter does not apply to protective orders or ex parte protective orders issued
 377 pursuant to Title 30, Chapter 6, Cohabitant Abuse Act, or to preliminary injunctions issued
 378 pursuant to an action for dissolution of marriage or legal separation.

379 Section 5. Section **77-3a-102** is enacted to read:

380 **77-3a-102. Fees -- Service of process.**

381 ~~h [(1) The filing fees for all petitions under this chapter shall be as stated in Section 21-1-5.] h~~

382 ~~h [(2) (1) h Ex parte civil stalking injunctions and civil stalking injunctions shall be served~~
 382a ~~by a~~
 383 ~~sheriff or constable.~~

384 ~~h [(3) (2) h All service shall be in accordance with applicable law.~~

385 ~~h [(4) Fees for service shall be in accordance with applicable law.]~~

385a **(3) FEES MAY NOT BE IMPOSED BY A COURT CLERK, CONSTABLE, OR LAW**

385b **ENFORCEMENT AGENCY FOR:**

385c **(a) FILING A PETITION UNDER THIS CHAPTER;**

385d **(b) OBTAINING AN EX PARTE CIVIL STALKING INJUNCTION; OR**

385e **(c) SERVICE OF A CIVIL STALKING INJUNCTION, EX PARTE OR OTHERWISE. h**

386 Section 6. Section **77-3a-103** is enacted to read:

387 **77-3a-103. Enforcement.**

388 (1) A peace or law enforcement officer shall, without a warrant, arrest a person if the peace
 389 or law enforcement officer has probable cause to believe that the person has violated an ex parte
 390 civil stalking injunction or civil stalking injunction issued pursuant to this chapter or has violated
 391 a permanent criminal stalking injunction issued pursuant to Section 76-5-106.5, whether or not the
 392 violation occurred in the presence of the officer.

393 (2) A violation of an ex parte civil stalking injunction or of a civil stalking injunction
 394 issued pursuant to this chapter constitutes the criminal offense of stalking as defined in Section
 395 76-5-106.5 and is also a violation of the civil stalking injunction. Violations may be enforced by
 396 a civil action initiated by the petitioner, a criminal action initiated by a prosecuting attorney, or
 397 both.

398 Section 7. **Effective date.**

399 This act takes effect on July 1, 2001.

Legislative Review Note
as of 10-18-00 1:49 PM

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

Office of Legislative Research and General Counsel

Committee Note

The Judiciary Interim Committee recommended this bill.