

Senator Terry R. Spencer proposes to substitute the following bill:

**CIVIL STALKING AMENDMENTS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: LaWanna Shurtliff**

**This act amends the Cohabitant Abuse Act to require a showing of preponderance of evidence of domestic violence or abuse before an ex parte protective order may be issued.**

**The act also requires the protective order to be filed as part of any pending divorce proceeding in the district court and requires evidentiary hearings. This act creates a new chapter for the issuance and enforcement of civil stalking injunctions. This act takes effect on July 1, 2001.**

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

AMENDS:

**30-6-2**, as last amended by Chapter 244, Laws of Utah 1996

**30-6-4**, as last amended by Chapter 10, Laws of Utah 1997

**30-6-4.2**, as last amended by Chapter 10, Laws of Utah 1997

**30-6-4.3**, as last amended by Chapter 83, Laws of Utah 1998

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

**78-3a-104**, as last amended by Chapter 149, Laws of Utah 2000

**78-3a-105**, as last amended by Chapter 149, Laws of Utah 2000

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 **30-6-2** is amended to read:



26           **30-6-2. Abuse or danger of abuse -- Protective orders.**

27           (1) Any cohabitant or any child residing with a cohabitant who has been subjected to abuse  
28 or domestic violence, or to whom there is a substantial likelihood of immediate danger of abuse  
29 or domestic violence, may seek an ex parte protective order or a protective order in accordance  
30 with this chapter, whether or not that person has left the residence or the premises in an effort to  
31 avoid further abuse.

32           (2) (a) A petition for a protective order may be filed under this chapter regardless of  
33 whether an action for divorce between the parties is pending.

34           (b) If a complaint for divorce has already been filed in district court, a petition under this  
35 chapter ~~[may]~~ shall be filed as part of the divorce proceedings, and the petitioner shall provide  
36 notice, in accordance with the provisions of this chapter, to the respondent or counsel representing  
37 the respondent.

38           (3) A cohabitant, the department, or any person or institution interested in a minor may  
39 seek a protective order on behalf of the minor under the circumstances described in Subsection (1),  
40 regardless of whether the minor could have filed a petition on his own behalf. If a cohabitant  
41 intends to seek a protective order on his own behalf and on behalf of a minor, a single petition may  
42 be filed.

43           (4) The court shall appoint a guardian ad litem to represent the minor if the court considers  
44 the appointment necessary for the welfare of the minor.

45           (5) The county attorney or district attorney, if appropriate, shall represent the department  
46 where the department appears as a petitioner.

47           (6) A petition seeking a protective order may not be withdrawn without approval of the  
48 court.

49           Section 2. Section **30-6-4** is amended to read:

50           **30-6-4. Forms for petitions and protective orders -- Assistance.**

51           (1) (a) The offices of the court clerk shall provide forms and nonlegal assistance to persons  
52 seeking to proceed under this chapter.

53           (b) The Administrative Office of the Courts shall develop and adopt uniform forms for  
54 petitions and orders for protection in accordance with the provisions of this chapter on or before  
55 September 1, 1995. That office shall provide the forms to the clerk of each court authorized to  
56 issue protective orders. The forms shall include:

57 (i) a statement notifying the petitioner for an ex parte protective order that knowing  
58 falsification of any statement or information provided for the purpose of obtaining a protective  
59 order may subject the petitioner to felony prosecution;

60 (ii) a separate portion of the form for those provisions, the violation of which is a criminal  
61 offense, and a separate portion for those provisions, the violation of which is a civil violation, as  
62 provided in Subsection 30-6-4.2(5);

63 (iii) language in the criminal provision portion stating violation of any criminal provision  
64 is a class A misdemeanor, and language in the civil portion stating violation of or failure to comply  
65 with a civil provision is subject to contempt proceedings;

66 (iv) a space for information the petitioner is able to provide to facilitate identification of  
67 the respondent, such as social security number, driver license number, date of birth, address,  
68 telephone number, and physical description;

69 (v) a space for the petitioner to request a specific period of time for the civil provisions to  
70 be in effect, not to exceed 150 days, unless the petitioner provides in writing the reason for the  
71 requested extension of the length of time beyond 150 days;

72 (vi) a statement advising the petitioner that when a minor child is included in an ex parte  
73 protective order or a protective order, as part of either the criminal or the civil portion of the order,  
74 the petitioner may provide a copy of the order to the principal of the school where the child  
75 attends; and

76 (vii) a statement advising the petitioner that if the respondent fails to return custody of a  
77 minor child to the petitioner as ordered in a protective order, the petitioner may obtain from the  
78 court a writ of assistance.

79 (2) If the person seeking to proceed under this chapter is not represented by an attorney,  
80 it is the responsibility of the court clerk's office to provide:

81 (a) the forms adopted pursuant to Subsection (1);

82 (b) all other forms required to petition for an order for protection including, but not limited  
83 to, forms for service;

84 (c) clerical assistance in filling out the forms and filing the petition, in accordance with  
85 Subsection (1)(a). A court clerk's office may designate any other entity, agency, or person to  
86 provide that service, but the court clerk's office is responsible to see that the service is provided;

87 (d) information regarding the means available for the service of process;

88 (e) a list of legal service organizations that may represent the petitioner in an action  
89 brought under this chapter, together with the telephone numbers of those organizations; and

90 (f) written information regarding the procedure for transporting a jailed or imprisoned  
91 respondent to the protective order hearing, including an explanation of the use of transportation  
92 order forms when necessary.

93 (3) No charges may be imposed by a court clerk, constable, or law enforcement agency for:

94 (a) filing a petition under this chapter;

95 (b) obtaining an ex parte protective order;

96 (c) obtaining copies, either certified or not certified, necessary for service or delivery to  
97 law enforcement officials; or

98 (d) fees for service of a petition, ex parte protective order, or protective order.

99 (4) A petition for an order of protection shall be in writing [~~and~~], verified and may include,  
100 but not be limited to, other evidence such as police reports, medical reports, or third party  
101 affidavits.

102 (5) (a) All orders for protection shall be issued in the form adopted by the Administrative  
103 Office of the Courts pursuant to Subsection (1).

104 (b) Each protective order issued, except orders issued ex parte, shall include the following  
105 language:

106 "Respondent was afforded both notice and opportunity to be heard in the hearing that gave  
107 rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322, 108 Stat.  
108 1796, 18 U.S.C.A. 2265, this order is valid in all the United States, the District of Columbia, tribal  
109 lands, and United States territories."

110 Section 3. Section **30-6-4.2** is amended to read:

111 **30-6-4.2. Protective orders -- Ex parte protective orders -- Modification of orders --**  
112 **Service of process -- Duties of the court.**

113 (1) If it appears from a petition for an order for protection or a petition to modify an order  
114 for protection that domestic violence or abuse has occurred or a modification of an order for  
115 protection is required, a court may:

116 (a) without notice, upon receipt of a petition demonstrating, by a preponderance of the  
117 evidence, the occurrence of domestic violence or abuse and of the need for an ex parte protective  
118 order, immediately issue an order for protection ex parte or modify an order for protection ex parte

119 as it considers necessary to protect the petitioner and all parties named to be protected in the  
120 petition; or

121 (b) upon notice, issue an order for protection or modify an order after a hearing, whether  
122 or not the respondent appears.

123 (2) A court may grant the following relief without notice in an order for protection or a  
124 modification issued ex parte:

125 (a) enjoin the respondent from threatening to commit or committing domestic violence or  
126 abuse against the petitioner and any designated family or household member;

127 (b) prohibit the respondent from harassing, telephoning, contacting, or otherwise  
128 communicating with the petitioner, directly or indirectly;

129 (c) order that the respondent is excluded from the petitioner's residence and its premises,  
130 and order the respondent to stay away from the residence, school, or place of employment of the  
131 petitioner, and the premises of any of these, or any specified place frequented by the petitioner and  
132 any designated family or household member;

133 (d) upon finding that the respondent's use or possession of a weapon may pose a serious  
134 threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a  
135 firearm or other weapon specified by the court;

136 (e) order possession and use of an automobile and other essential personal effects, and  
137 direct the appropriate law enforcement officer to accompany the petitioner to the residence of the  
138 parties to ensure that the petitioner is safely restored to possession of the residence, automobile,  
139 and other essential personal effects, or to supervise the petitioner's or respondent's removal of  
140 personal belongings;

141 (f) grant temporary custody of any minor children to the petitioner;

142 (g) order any further relief that the court considers necessary to provide for the safety and  
143 welfare of the petitioner and any designated family or household member; and

144 (h) if the petition requests child support or spousal support, at the hearing on the petition  
145 order both parties to provide verification of current income, including year-to-date pay stubs or  
146 employer statements of year-to-date or other period of earnings, as specified by the court, and  
147 complete copies of tax returns from at least the most recent year.

148 (3) A court may grant the following relief in an order for protection or a modification of  
149 an order after notice and hearing, whether or not the respondent appears:

- 150 (a) grant the relief described in Subsection (2); and
- 151 (b) specify arrangements for visitation of any minor child by the respondent and require
- 152 supervision of that visitation by a third party or deny visitation if necessary to protect the safety
- 153 of the petitioner or child.
- 154 (4) Following the protective order hearing, the court shall:
- 155 (a) as soon as possible, deliver the order to the county sheriff for service of process;
- 156 (b) make reasonable efforts to ensure that the order for protection is understood by the
- 157 petitioner, and the respondent, if present;
- 158 (c) transmit, by the end of the next business day after the order is issued, a copy of the
- 159 order for protection to the local law enforcement agency or agencies designated by the petitioner;
- 160 and
- 161 (d) transmit a copy of the order to the statewide domestic violence network described in
- 162 Section 30-6-8.
- 163 (5) (a) Each protective order shall include two separate portions, one for provisions, the
- 164 violation of which are criminal offenses, and one for provisions, the violation of which are civil
- 165 violations, as follows:
- 166 (i) criminal offenses are those under Subsections 30-6-4.2(2)(a) through (e), and under
- 167 Subsection 30-6-4.2(3)(a) as it refers to Subsections 30-6-4.2(2)(a) through (e); and
- 168 (ii) civil offenses are those under Subsections 30-6-4.2(2)(f) through (h), and Subsection
- 169 30-6-4.2(3)(a) as it refers to Subsections 30-6-4.2(2)(f) through (h).
- 170 (b) The criminal provision portion shall include a statement that violation of any criminal
- 171 provision is a class A misdemeanor.
- 172 (c) The civil provision portion shall include a notice that violation of or failure to comply
- 173 with a civil provision is subject to contempt proceedings.
- 174 (6) The protective order shall include:
- 175 (a) a designation of a specific date, determined by the court, when the civil portion of the
- 176 protective order either expires or is scheduled for review by the court, which date may not exceed
- 177 150 days after the date the order is issued, unless the court indicates on the record the reason for
- 178 setting a date beyond 150 days;
- 179 (b) information the petitioner is able to provide to facilitate identification of the
- 180 respondent, such as social security number, driver license number, date of birth, address, telephone

181 number, and physical description; and

182 (c) a statement advising the petitioner that:

183 (i) after three years from the date of issuance of the protective order, a hearing may be held  
184 to dismiss the criminal portion of the protective order;

185 (ii) the petitioner should, within the 30 days prior to the end of the three-year period,  
186 advise the court of the petitioner's current address for notice of any hearing; and

187 (iii) the address provided by the petitioner will not be made available to the respondent.

188 (7) Child support and spouse support orders issued as part of a protective order are subject  
189 to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in  
190 IV-D Cases, and Title 62A, Chapter 11, Part 5, [~~Universal~~] Income Withholding [=] in Non IV-D  
191 [~~Obligees~~] Cases, except when the protective order is issued ex parte.

192 (8) (a) The county sheriff that receives the order from the court, pursuant to Subsection  
193 (5)(a), shall provide expedited service for orders for protection issued in accordance with this  
194 chapter, and shall transmit verification of service of process, when the order has been served, to  
195 the statewide domestic violence network described in Section 30-6-8.

196 (b) This section does not prohibit any law enforcement agency from providing service of  
197 process if that law enforcement agency:

198 (i) has contact with the respondent and service by that law enforcement agency is possible;

199 or

200 (ii) determines that under the circumstances, providing service of process on the  
201 respondent is in the best interests of the petitioner.

202 (9) (a) When an order is served on a respondent in a jail or other holding facility, the law  
203 enforcement agency managing the facility shall make a reasonable effort to provide notice to the  
204 petitioner at the time the respondent is released from incarceration.

205 (b) Notification of the petitioner shall consist of a good faith reasonable effort to provide  
206 notification, including mailing a copy of the notification to the last-known address of the victim.

207 (10) (a) A court may modify or vacate an order of protection or any provisions in the order  
208 after notice and hearing, except as limited under Subsection (10)(b).

209 (b) Criminal provisions of a protective order may not be vacated within three years of  
210 issuance unless the petitioner:

211 (i) is personally served with notice of the hearing as provided in Rules 4 and 5, Utah Rules

212 of Civil Procedure, and the petitioner personally appears before the court and gives specific  
213 consent to the vacation of the criminal provisions of the protective order; or

214 (ii) submits a verified affidavit, stating agreement to the vacation of the criminal  
215 provisions of the protective order.

216 (11) A protective order may be modified without a showing of substantial and material  
217 change in circumstances.

218 (12) Insofar as the provisions of this chapter are more specific than the Utah Rules of Civil  
219 Procedure, regarding protective orders, the provisions of this chapter govern.

220 Section 4. Section **30-6-4.3** is amended to read:

221 **30-6-4.3. Hearings on ex parte orders.**

222 (1) (a) When a court issues an ex parte protective order the court shall set a date for a  
223 hearing on the petition within 20 days after the ex parte order is issued.

224 (b) Either party may request an evidentiary hearing after the issuance of an ex parte  
225 protective order. If an evidentiary hearing on the question of issuance of a protective order is  
226 requested, the burden is on the petitioner to show, by a preponderance of the evidence, that a  
227 protective order should be issued. No presumption of correctness may be attached to the ex parte  
228 protective order or its accompanying documentation at the time of that evidentiary hearing. The  
229 petitioner shall provide evidence in support of issuing a protective order. That evidence may  
230 include testimony, police reports, affidavits, and other evidence that tends to show that abuse has  
231 occurred.

232 [~~(b)~~] (c) If, at that hearing, the court does not issue a protective order, the ex parte  
233 protective order shall expire, unless it is otherwise [~~modified~~] extended by the court.

234 [~~(c)~~] (d) If at that hearing the court issues a protective order, the ex parte protective order  
235 remains in effect until service of process of the protective order is completed.

236 [~~(d)~~] (e) A protective order issued after notice and a hearing is effective until further order  
237 of the court.

238 (2) Upon a hearing under this section, the court may grant any of the relief described in  
239 Section 30-6-4.2.

240 (3) When a court denies a petition for an ex parte protective order or a petition to modify  
241 an order for protection ex parte, the court shall, at the request of the petitioner, set the matter for  
242 hearing upon notice to the respondent. That hearing may be an evidentiary hearing upon request



243 of either party.

244 (4) A respondent who has been served with an ex parte protective order may seek to vacate  
245 the ex parte protective order prior to the hearing scheduled pursuant to Subsection (1)(a) by filing  
246 a verified motion to vacate. The respondent's verified motion to vacate and a notice of hearing on  
247 that motion shall be personally served on the petitioner at least two days prior to the hearing on the  
248 motion to vacate.

249 Section 5. Section **77-3-1** is amended to read:

250 **77-3-1. Threatened offense -- Complaint.**

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

255 Section 6. Section **77-3a-101** is enacted to read:

256 **CHAPTER 3a. STALKING INJUNCTIONS**

257 **77-3a-101. Civil stalking injunction -- Petition -- Ex parte injunction.**

258 (1) As used in this chapter, "stalking" means the crime of stalking as defined in Section  
259 76-5-106.5. Stalking injunctions may not be obtained against law enforcement officers,  
260 governmental investigators, or licensed private investigators, acting in their official capacity.

261 (2) Any person who believes that he or she is the victim of stalking may file a verified  
262 written petition for a civil stalking injunction against the alleged stalker with the district court in  
263 the district in which the petitioner or respondent resides or in which any of the events occurred.  
264 A minor with his or her parent or guardian may file a petition on his or her own behalf, or a parent,  
265 guardian, or custodian may file a petition on the minor's behalf.

266 (3) The Administrative Office of the Courts shall develop and adopt uniform forms for  
267 petitions, ex parte civil stalking injunctions, civil stalking injunctions, service and any other  
268 necessary forms in accordance with the provisions of this chapter on or before July 1, 2001. The  
269 office shall provide the forms to the clerk of each district court.

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

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

274           (4) The petition for a civil stalking injunction shall include:  
275           (a) the name of the petitioner; however, the petitioner's address shall be disclosed to the  
276 court for purposes of service, but, on request of the petitioner, the address may not be listed on the  
277 petition, and shall be protected and maintained in a separate document or automated database, not  
278 subject to release, disclosure, or any form of public access except as ordered by the court for good  
279 cause shown;  
280           (b) the name and address, if known, of the respondent;  
281           (c) specific events and dates of the actions constituting the alleged stalking;  
282           (d) if there is a prior court order concerning the same conduct, the name of the court in  
283 which the order was rendered; and  
284           (e) corroborating evidence of stalking, which may be in the form of a police report,  
285 affidavit, record, statement, item, letter, or any other evidence which tends to prove the allegation  
286 of stalking.  
287           (5) If the court determines that there is reason to believe that an offense of stalking has  
288 occurred, an ex parte civil stalking injunction may be issued by the court that includes any of the  
289 following:  
290           (a) respondent may be enjoined from committing stalking;  
291           (b) respondent may be restrained from coming near the residence, place of employment,  
292 or school of the other party or specifically designated locations or persons;  
293           (c) respondent may be restrained from contacting, directly or indirectly, the other party,  
294 including personal, written or telephone contact with the other party, the other party's employers,  
295 employees, fellow workers or others with whom communication would be likely to cause  
296 annoyance or alarm to the other party; or  
297           (d) any other relief necessary or convenient for the protection of the petitioner and other  
298 specifically designated persons under the circumstances.  
299           (6) Within ten days of service of the ex parte civil stalking injunction, the respondent is  
300 entitled to request, in writing, an evidentiary hearing on the civil stalking injunction.  
301           (a) A hearing requested by the respondent shall be held within ten days from the date the  
302 request is filed with the court unless the court finds compelling reasons to continue the hearing.  
303 The hearing shall then be held at the earliest possible time. The burden is on the petitioner to show  
304 by a preponderance of the evidence that stalking of the petitioner by the respondent has occurred.

305           (b) An ex parte civil stalking injunction issued under this section shall state on its face:  
306           (i) that the respondent is entitled to a hearing, upon written request within ten days of the  
307 service of the order;  
308           (ii) the name and address of the district court where the request may be filed;  
309           (iii) that if the respondent fails to request a hearing within ten days of service, the ex parte  
310 civil stalking injunction is automatically modified to a civil stalking injunction without further  
311 notice to the respondent and that the civil stalking injunction expires three years after service of  
312 the ex parte civil stalking injunction; and  
313           (iv) that if the respondent requests, in writing, a hearing after the ten-day period after  
314 service, the court shall set a hearing within a reasonable time from the date requested.  
315           (7) At the hearing, the court may modify, revoke, or continue the injunction. The burden  
316 is on the respondent to show good cause why the civil stalking injunction should be dissolved or  
317 modified.  
318           (a) If the court finds that the respondent has shown good cause, then the burden is on the  
319 petitioner to show by a preponderance of the evidence that stalking of the petitioner by the  
320 respondent has occurred.  
321           (b) If the court finds that the respondent has failed to show good cause why the civil  
322 stalking injunction should be dissolved or modified, then the civil stalking injunction shall  
323 continue in effect.  
324           (8) The ex parte civil stalking injunction and civil stalking injunction shall include the  
325 following statement: "Attention. This is an official court order. If you disobey this order, the court  
326 may find you in contempt. You may also be arrested and prosecuted for the crime of stalking and  
327 any other crime you may have committed in disobeying this order."  
328           (9) The ex parte civil stalking injunction shall be served on the respondent within 90 days  
329 from the date it is signed. An ex parte civil stalking injunction is effective upon service. If no  
330 hearing is requested in writing by the respondent within ten days of service of the ex parte civil  
331 stalking injunction, the ex parte civil stalking injunction automatically becomes a civil stalking  
332 injunction without further notice to the respondent and expires three years from the date of service  
333 of the ex parte civil stalking injunction.  
334           (10) If the respondent requests a hearing after the ten-day period after service, the court  
335 shall set a hearing within a reasonable time from the date requested. At the hearing, the burden

336 is on the respondent to show good cause why the civil stalking injunction should be dissolved or  
337 modified.

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

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

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

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

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

356 (14) The court clerk shall provide, without charge, to the petitioner one certified copy of  
357 the injunction issued by the court and one certified copy of the proof of service of the injunction  
358 on the respondent. Charges may be imposed by the clerk's office for any additional copies,  
359 certified or not certified in accordance with Rule 4-202.08 of the Code of Judicial Administration.

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

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

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

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

368 Section 7. Section **77-3a-102** is enacted to read:

369 **77-3a-102. Fees -- Service of process.**

370 (1) Ex parte civil stalking injunctions and civil stalking injunctions shall be served by a  
371 sheriff or constable.

372 (2) All service shall be in accordance with applicable law.

373 (3) Fees may not be imposed by a court clerk, constable, or law enforcement agency for:

374 (a) filing a petition under this chapter;

375 (b) obtaining an ex parte civil stalking injunction; or

376 (c) service of a civil stalking injunction, ex parte or otherwise.

377 Section 8. Section **77-3a-103** is enacted to read:

378 **77-3a-103. Enforcement.**

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

384 (2) A violation of an ex parte civil stalking injunction or of a civil stalking injunction  
385 issued pursuant to this chapter constitutes the criminal offense of stalking as defined in Section  
386 76-5-106.5 and is also a violation of the civil stalking injunction. Violations may be enforced by  
387 a civil action initiated by the petitioner, a criminal action initiated by a prosecuting attorney, or  
388 both.

389 Section 9. Section **78-3a-104** is amended to read:

390 **78-3a-104. Jurisdiction of juvenile court -- Original -- Exclusive.**

391 (1) Except as otherwise provided by law, the juvenile court has exclusive original  
392 jurisdiction in proceedings concerning:

393 (a) a minor who has violated any federal, state, or local law or municipal ordinance or a  
394 person younger than 21 years of age who has violated any law or ordinance before becoming 18  
395 years of age, regardless of where the violation occurred, excluding traffic laws and ordinances;

396 (b) a person 21 years of age or older who has failed or refused to comply with an order of  
397 the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's 21st

398 birthday; however, the continuing jurisdiction is limited to causing compliance with existing  
399 orders;

400 (c) a minor who is an abused child, neglected child, or dependent child, as those terms are  
401 defined in Section 78-3a-103;

402 (d) a protective order for a minor who is alleged to be an abused child or neglected child,  
403 except as provided in Section 78-3a-105, and unless;

404 (i) the petition is filed by a natural parent or stepparent of the minor against a natural  
405 parent or stepparent of the minor; or

406 (ii) the petition is filed during the pendency of a divorce proceeding between the child's  
407 parents, one of whom is alleged to have abused or neglected the child;

408 (e) the determination of the custody of a minor or to appoint a guardian of the person or  
409 other guardian of a minor who comes within the court's jurisdiction under other provisions of this  
410 section;

411 (f) the termination of the legal parent-child relationship in accordance with Part 4,  
412 Termination of Parental Rights Act, including termination of residual parental rights and duties;

413 (g) the treatment or commitment of a mentally retarded minor;

414 (h) a minor who is a habitual truant from school;

415 (i) the judicial consent to the marriage of a minor under age 16 upon a determination of  
416 voluntariness or where otherwise required by law, employment, or enlistment of a minor when  
417 consent is required by law;

418 (j) any parent or parents of a minor committed to a secure youth corrections facility, to  
419 order, at the discretion of the court and on the recommendation of a secure youth corrections  
420 facility, the parent or parents of a minor committed to a secure youth corrections facility for a  
421 custodial term, to undergo group rehabilitation therapy under the direction of a secure youth  
422 corrections facility therapist, who has supervision of that parent's or parents' minor, or any other  
423 therapist the court may direct, for a period directed by the court as recommended by a secure youth  
424 corrections facility;

425 (k) a minor under Title 55, Chapter 12, Interstate Compact on Juveniles;

426 (l) the treatment or commitment of a mentally ill child. The court may commit a child to  
427 the physical custody of a local mental health authority or to the legal custody of the Division of  
428 Mental Health in accordance with the procedures and requirements of Title 62A, Chapter 12, Part

429 2A, Commitment of Persons Under Age 18 to Division of Mental Health. The court may not  
430 commit a child directly to the Utah State Hospital;

431 (m) the commitment of a minor in accordance with Section 62A-8-501; and

432 (n) de novo review of final agency actions resulting from an informal adjudicative  
433 proceeding as provided in Section 63-46b-15.

434 (2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive  
435 jurisdiction over any traffic offense committed by a minor under 16 years of age and concurrent  
436 jurisdiction over all other traffic offenses committed by a minor 16 years of age or older, except  
437 that the court shall have exclusive jurisdiction over the following traffic offenses committed by  
438 a minor under 18 years of age:

439 (a) Section 76-5-207, automobile homicide;

440 (b) Section 41-6-44, operating a vehicle while under the influence of alcohol or drugs;

441 (c) Section 41-6-45, reckless driving;

442 (d) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or semitrailer  
443 for an extended period of time; and

444 (e) Section 41-6-13.5, fleeing a peace officer.

445 (3) The court also has jurisdiction over traffic offenses that are part of a single criminal  
446 episode filed in a petition that contains an offense over which the court has jurisdiction.

447 (4) The juvenile court has jurisdiction over questions of custody, support, and visitation  
448 certified to it by the district court pursuant to Section 78-3a-105.

449 (5) The juvenile court has jurisdiction over an ungovernable or runaway minor who is  
450 referred to it by the Division of Child and Family Services or by public or private agencies that  
451 contract with the division to provide services to that minor where, despite earnest and persistent  
452 efforts by the division or agency, the minor has demonstrated that he:

453 (a) is beyond the control of his parent, guardian, lawful custodian, or school authorities  
454 to the extent that his behavior or condition endangers his own welfare or the welfare of others; or

455 (b) has run away from home.

456 (6) This section does not restrict the right of access to the juvenile court by private  
457 agencies or other persons.

458 (7) The juvenile court has jurisdiction of all magistrate functions relative to cases arising  
459 under Section 78-3a-602.

460 Section 10. Section **78-3a-105** is amended to read:

461 **78-3a-105. Concurrent jurisdiction -- District court and juvenile court.**

462 (1) The district court or other court has concurrent jurisdiction with the juvenile court as  
463 follows:

464 (a) when a person who is 18 years of age or older and who is under the continuing  
465 jurisdiction of the juvenile court under Section 78-3a-118 violates any federal, state, or local law  
466 or municipal ordinance;

467 (b) in adoption proceedings, when the juvenile court has previously entered an order  
468 terminating the rights of a parent, and finds that adoption is in the best interest of the minor;  
469 adoption proceedings under this section shall be conducted in accordance with the procedures  
470 described in Title 78, Chapter 30, Adoption;

471 (c) in establishing paternity and ordering testing for the purposes of establishing paternity,  
472 in accordance with Title 78, Chapter 45a, Uniform Act on Paternity, with regard to proceedings  
473 initiated under Title 78, Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings, or Title  
474 78, Chapter 3a, Part 4, Termination of Parental Rights Act; and

475 (d) in proceedings brought on behalf of a minor pursuant to Title 30, Chapter 6, Cohabitant  
476 Abuse Act, ~~[unless]~~ except that the district court has exclusive jurisdiction if the petition is filed  
477 by a natural parent or stepparent of the minor against a natural parent or stepparent of the minor  
478 or is filed during the pendency of a divorce proceeding between the child's parents, one of whom  
479 is alleged to have abused or neglected the child.

480 (2) The juvenile court has jurisdiction over petitions to modify a minor's birth certificate  
481 if the court otherwise has jurisdiction over the minor.

482 (3) (a) This section does not deprive the district court of jurisdiction to appoint a guardian  
483 for a minor, or to determine the support, custody, and visitation of a minor upon writ of habeas  
484 corpus or when the question of support, custody, and visitation is incidental to the determination  
485 of a cause in the district court.

486 (b) However, if a petition involving the same minor is pending in the juvenile court or the  
487 juvenile court has previously acquired continuing jurisdiction over the same minor, the district  
488 court shall certify the question of support, custody, and visitation to the juvenile court for  
489 determination.

490 (4) When a question is certified to the juvenile court under Subsection (3), the findings and



491 order of the juvenile court judge are the order of the district court.

492 (5) (a) Where a support, custody, or visitation award has been made by a district court in  
493 a divorce action or other proceeding, and the jurisdiction of the district court in the case is  
494 continuing, the juvenile court may acquire jurisdiction in a case involving the same minor if the  
495 minor is dependent, abused, neglected, or otherwise comes within the jurisdiction of the juvenile  
496 court under Section 78-3a-104.

497 (b) The juvenile court may, by order, change the custody, support, and visitation rights  
498 previously ordered in the district court as necessary to implement the order of the juvenile court  
499 for the safety and welfare of the minor. The juvenile court order remains in effect so long as the  
500 jurisdiction of the juvenile court continues.

501 (6) When a copy of the findings and order of the juvenile court has been filed with the  
502 district court, the findings and order of the juvenile court are binding on the parties to the divorce  
503 action as though entered in the district court.

504 Section 11. **Effective date.**

505 This act takes effect on July 1, 2001.