

Stalking Amendments
2025 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill addresses stalking.

Highlighted Provisions:

This bill:

- provides that an individual does not commit stalking in certain circumstances; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-106.5, as last amended by Laws of Utah 2024, Chapter 179

78B-7-701, as last amended by Laws of Utah 2022, Chapter 297

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

Section 1. Section **76-5-106.5** is amended to read:

76-5-106.5 . Stalking -- Definitions -- Injunction -- Penalties -- Duties of law enforcement officer.

(1)(a) As used in this section:

(i) "Course of conduct" means two or more acts directed at or toward a specific individual, including:

(A) acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about an individual, or interferes with an individual's property:

- 29 (I) directly, indirectly, or through any third party; and
30 (II) by any action, method, device, or means; or
31 (B) when the actor engages in any of the following acts or causes someone else to
32 engage in any of these acts:
33 (I) approaches or confronts an individual;
34 (II) appears at the individual's workplace or contacts the individual's employer
35 or coworker;
36 (III) appears at an individual's residence or contacts an individual's neighbor, or
37 enters property owned, leased, or occupied by an individual;
38 (IV) sends material by any means to the individual or for the purpose of
39 obtaining or disseminating information about or communicating with the
40 individual to a member of the individual's family or household, employer,
41 coworker, friend, or associate of the individual;
42 (V) places an object on or delivers an object to property owned, leased, or
43 occupied by an individual, or to the individual's place of employment with
44 the intent that the object be delivered to the individual; or
45 (VI) uses a computer, the Internet, text messaging, or any other electronic
46 means to commit an act that is a part of the course of conduct.
- 47 (ii)(A) "Emotional distress" means significant mental or psychological suffering,
48 whether or not medical or other professional treatment or counseling is
49 required.
- 50 (B) "Emotional distress" includes significant mental or psychological suffering
51 resulting from harm to an animal.
- 52 (iii) "Immediate family" means a spouse, parent, child, sibling, or any other
53 individual who regularly resides in the household or who regularly resided in the
54 household within the prior six months.
- 55 (iv) "Private investigator" means the same as that term is defined in Section 76-9-408.
- 56 (v) "Reasonable person" means a reasonable person in the victim's circumstances.
- 57 (vi) "Stalking" means an offense as described in Subsection (2).
- 58 (vii) "Text messaging" means a communication in the form of electronic text or one
59 or more electronic images sent by the actor from a telephone or computer to
60 another individual's telephone or computer by addressing the communication to
61 the recipient's telephone number.
- 62 (b) Terms defined in Section 76-1-101.5 apply to this section.

- (2) An actor commits stalking if the actor intentionally or knowingly:
- (a) engages in a course of conduct directed at a specific individual and knows or is reckless as to whether the course of conduct would cause a reasonable person:
 - (i) to fear for the individual's own safety or the safety of a third individual; or
 - (ii) to suffer other emotional distress; or
 - (b) violates:
 - (i) a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions; or
 - (ii) a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.
- (3)(a) A violation of Subsection (2) is a class A misdemeanor:
- (i) upon the actor's first violation of Subsection (2); or
 - (ii) if the actor violated a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.
- (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if the actor:
- (i) has been previously convicted of an offense of stalking;
 - (ii) has been previously convicted in another jurisdiction of an offense that is substantially similar to the offense of stalking;
 - (iii) has been previously convicted of any felony offense in Utah or of any crime in another jurisdiction which if committed in Utah would be a felony, in which the victim of the stalking offense or a member of the victim's immediate family was also a victim of the previous felony offense;
 - (iv) violated a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions; or
 - (v) has been or is at the time of the offense a cohabitant, as defined in Section 78B-7-102, of the victim.
- (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a second degree felony if the actor:
- (i) used a dangerous weapon or used other means or force likely to produce death or serious bodily injury, in the commission of the crime of stalking;
 - (ii) has been previously convicted two or more times of the offense of stalking;
 - (iii) has been convicted two or more times in another jurisdiction or jurisdictions of offenses that are substantially similar to the offense of stalking;

- (iv) has been convicted two or more times, in any combination, of offenses under Subsection (3)(b)(i), (ii), or (iii);
- (v) has been previously convicted two or more times of felony offenses in Utah or of crimes in another jurisdiction or jurisdictions which, if committed in Utah, would be felonies, in which the victim of the stalking was also a victim of the previous felony offenses; or
- (vi) has been previously convicted of an offense under Subsection (3)(b)(iv) or (v).
- (4) In a prosecution under this section, it is not a defense that the actor:
- (a) was not given actual notice that the course of conduct was unwanted; or
- (b) did not intend to cause the victim fear or other emotional distress.
- (5) An offense of stalking may be prosecuted under this section in any jurisdiction where one or more of the acts that is part of the course of conduct was initiated or caused an effect on the victim.
- (6)(a) Except as provided in Subsection (6)(b), an actor does not violate this section if:
- (i) ~~[-]~~the actor is acting:
- ~~[(i)]~~ (A) in the actor's official capacity as a law enforcement officer, governmental investigator, or private investigator; and
- ~~[(ii)]~~ (B) for a legitimate official or business purpose~~[-]~~ ; or
- ~~(ii)~~(A) the actor is the owner of a business;
- (B) the actor engages in a course of conduct that is reasonable and necessary to protect the actor's ownership interest in the business;
- (C) the conduct is not directed at a cohabitant, as that term is defined in Section 78B-7-102; and
- (D) the actor's conduct does not violate any other provision of this code.
- (b) A private investigator is not exempt from this section if the private investigator engages in conduct that would constitute a ground for disciplinary action under Section 53-9-118.
- (7)(a) A permanent criminal stalking injunction limiting the contact between the actor and victim may be filed in accordance with Section 78B-7-902.
- (b) This section does not preclude the filing of criminal information for stalking based on the same act which is the basis for the violation of the stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions, or a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

(8)(a) A law enforcement officer who responds to an allegation of stalking shall use all reasonable means to protect the victim and prevent further violence, including:

- (i) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;
- (ii) confiscating the weapon or weapons involved in the alleged stalking;
- (iii) making arrangements for the victim and any child to obtain emergency housing or shelter;
- (iv) providing protection while the victim removes essential personal effects;
- (v) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and
- (vi) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of stalking, in accordance with Subsection (8)(b).

(b)(i) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this section and Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.

(ii) The written notice shall also include:

(A) a statement that the forms needed in order to obtain a stalking injunction are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and

(B) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.

(c) If a weapon is confiscated under this Subsection (8), the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a stalking injunction is not issued or once the stalking injunction is terminated.

Section 2. Section **78B-7-701** is amended to read:

78B-7-701 . Ex parte civil stalking injunction -- Civil stalking injunction.

(1)(a)(i) Except as provided in Subsection (1)(b), an individual who believes that the individual is the victim of stalking may [file] bring a verified written petition for a civil stalking injunction against the alleged stalker[~~with the district court in the district in which the individual or respondent resides, is temporarily domiciled, or in which any of the events occurred~~].

(ii) A minor with the minor's parent or guardian may [file] bring a petition on the

- 165 minor's own behalf, or a parent, guardian, or custodian may file a petition on the
166 minor's behalf.
- 167 (b) A stalking injunction may not be obtained against:
- 168 (i) ~~[-]~~a law enforcement officer, governmental investigator, or licensed private
169 investigator, ~~[who is acting in official capacity.]~~ as described in Subsection
170 76-5-106.5(6); or
- 171 (ii) an individual for engaging in conduct described in Subsection 76-5-106.5(6)(a)(ii).
- 172 (2) Notwithstanding Chapter 3a, Venue for Civil Actions, an individual shall bring a
173 petition described in Subsection (1)(a) in the judicial district in which:
- 174 (a) the individual or respondent resides or is temporarily domiciled; or
175 (b) any of the events occurred.
- 176 ~~[(2)]~~ (3)(a) Except as provided in Subsection ~~[(2)(b)]~~ (3)(b), a petition for a civil stalking
177 injunction shall include:
- 178 (i) the name of the petitioner;
- 179 (ii) the name and address, if known, of the respondent;
- 180 (iii) specific events and dates of the actions constituting the alleged stalking;
- 181 (iv) if there is a prior court order concerning the same conduct, the name of the court
182 in which the order was rendered; and
- 183 (v) corroborating evidence of stalking, which may be in the form of a police report,
184 affidavit, record, statement, item, letter, or any other evidence which tends to
185 prove the allegation of stalking.
- 186 (b)(i) The petitioner's address shall be disclosed to the court for purposes of service.
- 187 (ii) On request of the petitioner, the petitioner's address may not be listed on the
188 petition, and shall be protected and maintained in a separate document or
189 automated database, not subject to release, disclosure, or any form of public
190 access except as ordered by the court for good cause shown.
- 191 ~~[(3)]~~ (4)(a) If the court determines that there is reason to believe that an offense of
192 stalking has occurred, the court may issue an ex parte civil stalking injunction ~~[may~~
193 ~~be issued by the court]~~ that includes any of the following:
- 194 (i) the respondent may be enjoined from committing stalking;
- 195 (ii) the respondent may be restrained from coming near the residence, place of
196 employment, or school of the other party or specifically designated locations or
197 persons;
- 198 (iii) the respondent may be restrained from contacting, directly or indirectly, the other

- 199 party, including personal, written or telephone contact with the other party, the
200 other party's employers, employees, fellow workers or others with whom
201 communication would be likely to cause annoyance or alarm to the other party; or
202 (iv) any other relief necessary or convenient for the protection of the petitioner and
203 other specifically designated individuals under the circumstances.
- 204 (b)(i) If the petitioner and respondent have minor children, the court shall follow the
205 provisions of Section 78B-7-603 and take into consideration the respondent's
206 custody and parent-time rights while ensuring the safety of the victim and the
207 minor children.
- 208 (ii) If the court issues a civil stalking injunction, but declines to address custody and
209 parent-time issues, a copy of the stalking injunction shall be filed in any action in
210 which custody and parent-time issues are being considered.
- 211 [(4)] (5)(a) Within 10 days after the day on which the [the] ex parte civil stalking
212 injunction is served, the respondent is entitled to request, in writing, an evidentiary
213 hearing on the civil stalking injunction.
- 214 (b)(i) The court shall hold a hearing requested by the respondent at the earliest
215 possible time and within 10 days after the day on which the request is filed with
216 the court unless the court finds compelling reasons to continue the hearing.
- 217 (ii) At the hearing, the burden is on the petitioner to show by a preponderance of the
218 evidence that stalking of the petitioner by the respondent has occurred.
- 219 (c) An ex parte civil stalking injunction issued under this section shall state on the civil
220 stalking injunction's face:
- 221 (i) that the respondent is entitled to a hearing, upon written request within 10 days
222 after the day on which the order is served;
- 223 (ii) the name and address of the court where the request may be filed;
- 224 (iii) that if the respondent fails to request a hearing within 10 days after the day on
225 which the ex parte civil stalking injunction is served, the ex parte civil stalking
226 injunction is automatically modified to a civil stalking injunction without further
227 notice to the respondent and the civil stalking injunction expires three years after
228 the day on which the ex parte civil stalking injunction is served; and
- 229 (iv) that if the respondent requests, in writing, a hearing after the ten-day period after
230 service, the court shall set a hearing within a reasonable time from the date
231 requested.
- 232 [(5)] (6)(a) At the hearing, the court may modify, revoke, or continue the injunction.

(b) At the hearing, the burden is on the petitioner to show by a preponderance of the evidence that stalking of the petitioner by the respondent has occurred.

~~[(6)]~~ (7)(a) The ex parte civil stalking injunction shall be served on the respondent within 90 days after the day on which the ex parte civil stalking injunction is signed.

(b) An ex parte civil stalking injunction is effective upon service.

(c) If a hearing is not requested in writing by the respondent within 10 days after the day on which the ex parte civil stalking injunction is served, the ex parte civil stalking injunction automatically becomes a civil stalking injunction without further notice to the respondent and expires three years after the day on which the ex parte civil stalking injunction is served.

~~[(7)]~~ (8)(a) If the respondent requests a hearing after the 10-day period after service, the court shall set a hearing within a reasonable time from the date requested.

(b) At the hearing, the burden is on the respondent to show good cause why the civil stalking injunction should be dissolved or modified.

~~[(8)]~~ (9)(a) Within 24 hours after the affidavit or acceptance of service is returned, excluding weekends and holidays, the clerk of the court from which the ex parte civil stalking injunction was issued shall enter a copy of the ex parte civil stalking injunction and proof of service or acceptance of service in the statewide network for warrants or a similar system.

(b) The effectiveness of an ex parte civil stalking injunction or civil stalking injunction does not depend upon entry of the ex parte civil stalking injunction or civil stalking injunction in the statewide system and, for enforcement purposes, a certified copy of an ex parte civil stalking injunction or civil stalking injunction is presumed to be a valid existing order of the court for a period of three years after the day on which the ex parte civil stalking injunction is served on the respondent.

(c)(i) Any changes or modifications of the ex parte civil stalking injunction are effective upon service on the respondent.

(ii) The original ex parte civil stalking injunction continues in effect until service of the changed or modified civil stalking injunction on the respondent.

~~[(9)]~~ (10) Within 24 hours after the affidavit or acceptance of service is returned, excluding weekends and holidays, the clerk of the court shall enter a copy of the changed or modified civil stalking injunction and proof of service or acceptance of service in the statewide network for warrants or a similar system.

~~[(10)]~~ (11) The ex parte civil stalking injunction or civil stalking injunction may be

dissolved at any time upon application of the petitioner to the court that granted the ex parte civil stalking injunction or civil stalking injunction.

~~[(11)]~~ (12) An ex parte civil stalking injunction and a civil stalking injunction shall be served by a sheriff or constable in accordance with this section.

~~[(12)]~~ (13) The remedies provided in this chapter for enforcement of the orders of the court are in addition to any other civil and criminal remedies available.

~~[(13)]~~ (14) The court shall hear and decide all matters arising under this section.

~~[(14)]~~ (15) After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees.

~~[(15)]~~ (16) This section does not apply to preliminary injunctions issued under an action for dissolution of marriage or legal separation.

Section 3. **Effective Date.**

This bill takes effect on May 7, 2025.