

1 months.

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

3 (2) A person is guilty of stalking who:

4 (a) intentionally or knowingly engages in a course of conduct directed at a specific person
5 that would cause a reasonable person:

6 (i) to fear bodily injury to himself or a member of his immediate family; or

7 (ii) to suffer emotional distress to himself or a member of his immediate family;

8 (b) has knowledge or should have knowledge that the specific person:

9 (i) will be placed in reasonable fear of bodily injury to himself or a member of his
10 immediate family; or

11 (ii) will suffer emotional distress or a member of his immediate family will suffer
12 emotional distress; and

13 (c) whose conduct:

14 (i) induces fear in the specific person of bodily injury to himself or a member of his
15 immediate family; or

16 (ii) causes emotional distress in the specific person or a member of his immediate family.

17 (3) Stalking is a class B misdemeanor.

18 (4) Stalking is a class A misdemeanor if the offender:

19 (a) has been previously convicted of an offense of stalking;

20 (b) has been convicted in another jurisdiction of an offense that is substantially similar to
21 the offense of stalking; [or]

22 (c) has been previously convicted of any felony offense in Utah or of any crime in another
23 jurisdiction which if committed in Utah would be a felony, in which the victim of the stalking or
24 a member of the victim's immediate family was also a victim of the previous felony offense; or

25 (d) violated a stalking injunction issued pursuant to Title 77, Chapter 3a, Stalking
26 Injunctions.

27 (5) Stalking is a felony of the third degree if the offender:

28 (a) used a dangerous weapon as defined in Section 76-1-601 under circumstances not
29 amounting to a violation of Subsection 76-5-103(1)(a), or used other means or force likely to
30 produce death or serious bodily injury, in the commission of the crime of stalking;

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

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

3 (d) has been convicted two or more times, in any combination, of offenses under
4 Subsections (5) (b) and (c); [or]

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

8 (f) violated a permanent criminal stalking injunction issued pursuant to Subsection (6).

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

12 (a) A permanent criminal stalking injunction shall be issued without a hearing unless the
13 defendant requests a hearing.

14 (i) If the defendant requests a hearing, it shall be held at the time of the verdict unless the
15 victim requests otherwise.

16 (ii) If the verdict was entered in a justice court, a certified copy of the judgment and
17 conviction or a certified copy of the court's order holding the plea in abeyance must be filed by the
18 victim in the district court as an application and request for hearing for a permanent stalking
19 injunction.

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

21 (i) an order restraining the defendant from entering the residence, property, school, or
22 place of employment of the victim and requiring the defendant to stay away from any specified
23 place that is named in the order and is frequented regularly by the victim; and

24 (ii) an order restraining the defendant from making contact with the victim, including an
25 order forbidding the defendant from personally or through an agent initiating any communication
26 likely to cause annoyance or alarm, including personal, written, or telephone contact with the
27 victim, the victim's employers, employees, fellow workers, or others with whom communication
28 would be likely to cause annoyance or alarm to the victim.

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

31 (d) Notice of permanent criminal stalking injunctions issued pursuant to this section shall

1 be sent by the court to the statewide warrants network or similar system.

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

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

7 (g) Nothing in this section shall preclude the filing of a criminal information for stalking
8 based on the same act which is the basis for the violation of the permanent stalking injunction.

9 Section 2. Section **77-3-1** is amended to read:

10 **77-3-1. Threatened offense -- Complaint.**

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

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

16 **CHAPTER 3a. STALKING INJUNCTIONS**

17 **77-3a-101. Temporary stalking injunction -- Petition.**

18 (1) As used in this chapter, "stalking" means the crime of stalking as defined in Section
19 76-5-106.5.

20 (2) Any person who believes that they are the victim of stalking may file a petition with
21 the district court in the district in which the petitioner resides or in which any of the events
22 occurred for a temporary injunction against the alleged stalker. A person unable to file a petition
23 on their own, may request a third party to file a petition on their behalf.

24 (3) The petition shall state:

25 (a) the name of the petitioner. The petitioner's address shall be disclosed to the court for
26 purposes of service, but, on request of the petitioner, the address may not be listed on the petition.
27 The address shall be protected and maintained in a separate document or automated database and
28 is not subject to release, disclosure, or any form of public access except as ordered by the court for
29 good cause shown;

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

31 (c) a specific statement recounting events and dates of the actions constituting the alleged

1 stalking; and

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

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

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

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

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

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

14 (a) A hearing requested by the respondent shall be held within ten days from the date the
15 request is filed with the court unless the court finds compelling reasons to continue the hearing.

16 The hearing shall then be held at the earliest possible time.

17 (b) An ex parte temporary stalking injunction issued under this section shall state on its
18 face:

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

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

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

22 (6) The temporary stalking injunction shall include the following statement: "Warning.
23 This is an official court order. If you disobey this order the court may find you in contempt. You
24 may also be arrested and prosecuted for the crime of stalking and any other crime you may have
25 committed in disobeying this order."

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

29 (8) Within 24 hours after the affidavit or acceptance of service has been returned,
30 excluding weekends and holidays, the clerk of the court from which the temporary stalking
31 injunction was issued shall enter a copy of the temporary stalking injunction and proof of service

1 or acceptance of service in the statewide network for warrants or a similar system.

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

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

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

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

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

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

19 Section 4. Section **77-3a-102** is enacted to read:

20 **77-3a-102. Renewal procedure.**

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

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

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

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

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

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

1 be given to the respondent.

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

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

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

13 Section 5. Section **77-3a-103** is enacted to read:

14 **77-3a-103. Permanent stalking injunction.**

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

17 (2) An application for a permanent stalking injunction shall consist of a filing for a
18 modification of a temporary stalking injunction to a permanent stalking injunction.

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

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

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

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

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

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

30 (4) The modification for a permanent stalking injunction notice shall be served on the
31 respondent within one year from the expiration date of the last renewal of the original temporary

1 stalking injunction. A modification notice that is not served on the respondent within one year
2 expires.

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

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

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

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

17 Section 6. Section **77-3a-104** is enacted to read:

18 **77-3a-104. Fees -- Service of process.**

19 (1) The filing fee for a petition for a temporary stalking injunction under this chapter is
20 \$50.

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

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

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

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

29 Section 7. Section **77-3a-105** is enacted to read:

30 **77-3a-105. Enforcement.**

31 (1) A peace or law enforcement officer may, with or without a warrant, arrest a person if

1 the peace or law enforcement officer has probable cause to believe that the person has violated a
2 temporary or permanent stalking injunction issued pursuant to this chapter or has violated a
3 permanent criminal stalking injunction issued pursuant to 76-5-106.5, whether or not the violation
4 occurred in the presence of the officer.

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

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

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

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

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

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

Legislative Review Note

as of 1-26-98 9:02 AM

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

Office of Legislative Research and General Counsel