

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

**REILLY CIVIL STALKING AMENDMENTS**

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: Lawanna Shurtliff**

David L. Gladwell

AN ACT RELATING TO THE CODE OF CRIMINAL PROCEDURE; CREATING A  
PROCEDURE FOR THE ISSUANCE OF A TEMPORARY STALKING INJUNCTION;  
PROVIDING FOR RENEWAL AND MODIFICATION; MAKING TECHNICAL  
CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

AMENDS:

**21-1-5**, as last amended by Chapter 171, Laws of Utah 1998

**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

**77-3a-104**, Utah Code Annotated 1953

**77-3a-105**, 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:

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

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

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

31 (iv) \$80 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4,  
32 Separate Maintenance[-];

33 (v) \$50 if the petition is for a temporary stalking injunction under Title 77, Chapter 3a,

34 Stalking Injunctions;

35 (vi) \$30 if the petition is an application to renew a temporary stalking injunction; and

36 (vii) \$50 if the petition is an application to modify a temporary stalking injunction to a  
37 permanent stalking injunction.

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

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

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

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

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

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

50 (iii) \$90 if the original petition is filed under Subsection (1)(a) or when the claim for relief  
51 is \$10,000 or more; and

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

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

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

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

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

61 (g) The fee for filing a petition for trial de novo of an adjudication of the justice court or  
62 of the small claims department is \$70.

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

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

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

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

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

74 (iii) One dollar of the fees established under Subsections (1)(a) through (e), (1)(g), and  
75 (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in Section  
76 78-31b-9.

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

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

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

82 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state  
83 or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing  
84 officer of this state or of its political subdivisions other than the Utah State Tax Commission, is  
85 \$40.

86 (n) The fee for filing a judgment by confession without action under Section 78-22-3 is  
87 \$25.

88 (o) The fee for filing an award of arbitration for confirmation, modification, or vacation  
89 under Title 78, Chapter 31a, Utah Arbitration Act, that is not part of an action before the court is  
90 \$25.

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

92 (q) The fee for filing any accounting required by law is:

93 (i) \$10 for an estate valued at \$50,000 or less;

94 (ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;

95 (iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;

96 (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and

97 (v) \$150 for an estate valued at more than \$168,000.

98 (r) The fee for filing a demand for a civil jury is \$50.

99 (s) The fee for filing a notice of deposition in this state concerning an action pending in  
100 another state under Utah Rule of Civil Procedure 26 is \$25.

101 (t) The fee for filing documents that require judicial approval but are not part of an action  
102 before the court is \$25.

103 (u) The fee for a petition to open a sealed record is \$25.

104 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$20 in addition  
105 to any fee for a complaint or petition.

106 (w) The fee for a petition for authorization for a minor to marry required by Section 30-1-9  
107 is \$5.

108 (x) The fee for a certificate issued under Section 26-2-25 is \$2.

109 (y) The fee for a certified copy of a document is \$2 per document plus 50 cents per page.

110 (z) The fee for an exemplified copy of a document is \$4 per document plus 50 cents per  
111 page.

112 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of documents  
113 and forms and for the search and retrieval of records under Title 63, Chapter 2, Government  
114 Records Access and Management Act. Fees under this subsection shall be credited to the court  
115 as a reimbursement of expenditures.

116 (bb) There is no fee for services or the filing of documents not listed in this section or  
117 otherwise provided by law.

118 (cc) Except as provided in this section, all fees collected under this section are paid to the

119 General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts  
120 the pleading for filing or performs the requested service.

121 (dd) The filing fees under this section may not be charged to the state, its agencies, or  
122 political subdivisions filing or defending any action. In judgments awarded in favor of the state,  
123 its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order  
124 the filing fees and collection costs to be paid by the judgment debtor. The sums collected under  
125 this subsection shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or  
126 other penalty and costs permitted by law.

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

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

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

139 (iii) The Division of Facilities Construction and Management may enter into agreements  
140 and make expenditures related to this project before the receipt of revenues provided for under this  
141 subsection.

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

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

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

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

150 account.

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

153 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall transfer  
154 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a  
155 court of record to the Division of Facilities Construction and Management Capital Projects Fund.  
156 The division of money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine  
157 or bail forfeiture paid.

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

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

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

167 (i) to repay costs associated with the construction of the court complex that were funded  
168 from sources other than revenues provided for under this subsection; and

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

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

171 **77-3-1. Threatened offense -- Complaint.**

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

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

177 **CHAPTER 3a. STALKING INJUNCTIONS**

178 **77-3a-101. Temporary stalking injunction -- Petition.**

179 (1) As used in this chapter, "stalking" means the crime of stalking as defined in Section  
180 76-5-106.5. Stalking injunctions may not be obtained against law enforcement officers.

181 governmental investigators, or licensed private investigators, acting in their official capacity.

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

186 (3) The petition shall include:

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

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

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

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

196 (e) corroborating evidence of stalking, which may be in the form of a police report,  
197 affidavits, or other corroborating evidence.

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

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

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

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

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

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

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

212 face:

213 (i) that the respondent is entitled to an evidentiary hearing upon written request; and

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

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

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

217 This is an official court order. If you disobey this order, the court may find you in contempt. You

218 may also be arrested and prosecuted for the crime of stalking and any other crime you may have

219 committed in disobeying this order."

220 (7) The temporary stalking injunction shall be served on the respondent within 90 days

221 from the date it is signed. A temporary stalking injunction is effective upon service and expires,

222 unless renewed, one year after service of the original temporary stalking injunction.

223 (8) Within 24 hours after the affidavit or acceptance of service has been returned,

224 excluding weekends and holidays, the clerk of the court from which the temporary stalking

225 injunction was issued shall enter a copy of the temporary stalking injunction and proof of service

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

227 (a) The effectiveness of a temporary stalking injunction does not depend upon its entry in

228 the statewide system and, for enforcement purposes, a certified copy of a temporary stalking

229 injunction is presumed to be a valid existing order of the court for a period of one year from the

230 date of service of the temporary stalking injunction on the respondent.

231 (b) Any changes, renewals, or modifications of the temporary stalking injunction are

232 effective on entry by the court and shall be entered into the statewide system within 24 hours of

233 the entry, excluding weekends and holidays.

234 (9) The temporary stalking injunction may be dissolved at any time upon application of

235 the petitioner to the court which granted it.

236 (10) The remedies provided in this chapter for enforcement of the orders of the court are

237 in addition to any other civil and criminal remedies available. The district court shall hear and

238 decide all matters arising pursuant to this section.

239 (11) After a hearing with notice to the affected party, the court may enter an order

240 requiring any party to pay the costs of the action, including reasonable attorney's fees.

241 (12) This chapter does not apply to protective orders or ex parte protective orders issued

242 pursuant to Title 30, Chapter 6, Cohabitant Abuse Act, or to preliminary injunctions issued



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

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

245 **77-3a-102. Renewal procedure.**

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

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

251 (a) a statement that the petitioner has applied for a renewal of the temporary stalking  
252 injunction;

253 (b) notice that the respondent has a right to request in writing a hearing on the renewal  
254 within ten days of service;

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

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

259 (e) the reasons for the renewal request.

260 (3) If the respondent requests a hearing in writing within ten days of service, the court shall  
261 schedule a hearing within ten days of receipt of the request unless the court finds compelling  
262 reasons to continue the hearing. The hearing shall then be held at the earliest possible time. At  
263 the hearing, the burden is on the petitioner to show by a preponderance of the evidence why the  
264 injunction should be renewed.

265 (4) The renewal notice shall be served on the respondent within 90 days from the  
266 expiration date of the original temporary stalking injunction. A renewal notice that is not served  
267 on the respondent within 90 days automatically expires at the end of one year.

268 (5) If no hearing is requested by a respondent after service of notice, the temporary stalking  
269 injunction is automatically renewed for a period of one year, starting from the tenth day after  
270 service on the defendant, without further action of the court.

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

272 **77-3a-103. Permanent stalking injunction.**

273 (1) A person may apply for a permanent stalking injunction if, after issuance of a

274 temporary stalking injunction, one or more renewals have been granted by the court.

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

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

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

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

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

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

286 (e) that the respondent can make a written request at any time for a hearing to show cause  
287 to dissolve or modify the permanent stalking injunction; and

288 (f) the reasons for the request for modification of a temporary stalking injunction to a  
289 permanent stalking injunction.

290 (4) The modification for a permanent stalking injunction notice shall be served on the  
291 respondent within 90 days from the expiration date of the last renewal of the original temporary  
292 stalking injunction. A modification notice that is not served on the respondent within 90 days  
293 expires.

294 (5) If a hearing is requested by the respondent within ten days after service, the court shall  
295 set a hearing within ten days from the date the request is filed unless the court finds compelling  
296 reasons to continue the hearing. The hearing shall be held at the earliest possible time. At the  
297 hearing, the burden is on the petitioner to show by a preponderance of the evidence why the  
298 injunction should be modified to a permanent stalking injunction.

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

303 (7) If the respondent requests a hearing after the ten-day period after service, the court shall  
304 set a hearing within a reasonable time from the date requested. At the hearing, the burden is on

305 the respondent to show good cause why the permanent injunction should be dissolved or modified.

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

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

309 **77-3a-104. Fees -- Service of process.**

310 (1) The filing fees for all petitions under this chapter shall be as stated in Section 21-1-5.

311 (2) Temporary stalking injunctions, notices of renewal, and notices of modification shall  
312 be served by a sheriff, or constable. In addition, a peace officer or law enforcement officer may  
313 serve a temporary stalking injunction, notices of renewal and notices of modification. All service  
314 shall be in accordance with applicable law.

315 (3) Fees for service shall be in accordance with applicable law.

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

317 **77-3a-105. Enforcement.**

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

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

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

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

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

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

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

336           Section 8. **Effective date.**

337           This act takes effect on July 1, 1999.