



28 unless the court has reasonable cause to believe that the dismissal would benefit the victim; and]  
29 [(f)] (e) may hold a plea in abeyance, in accordance with the provisions of Chapter 2a,  
30 making treatment or any other requirement for the defendant a condition of that status.

31 (2) When the court holds a plea in abeyance in accordance with Subsection (1)[(f)] (e), the  
32 case against a perpetrator of domestic violence may be dismissed only if the perpetrator  
33 successfully completes all conditions imposed by the court. If the defendant fails to complete any  
34 condition imposed by the court under Subsection (1)[(f)] (e), the court may accept the defendant's  
35 plea.

36 (3) (a) Because of the likelihood of repeated violence directed at those who have been  
37 victims of domestic violence in the past, when any defendant charged with a crime involving  
38 domestic violence is released from custody before trial, the court authorizing the release may issue  
39 an order:

40 (i) enjoining the defendant from threatening to commit or committing acts of domestic  
41 violence or abuse against the victim and any designated family or household member;

42 (ii) prohibiting the defendant from harassing, telephoning, contacting, or otherwise  
43 communicating with the victim, directly or indirectly;

44 (iii) removing and excluding the defendant from the victim's residence and the premises  
45 of the residence;

46 (iv) ordering the defendant to stay away from the residence, school, place of employment  
47 of the victim, and the premises of any of these, or any specified place frequented by the victim and  
48 any designated family member; and

49 (v) ordering any other relief that the court considers necessary to protect and provide for  
50 the safety of the victim and any designated family or household member.

51 (b) Violation of an order issued pursuant to this section is punishable as follows:

52 (i) if the original arrest or subsequent charge filed is a felony, an offense under this section  
53 is a third degree felony; and

54 (ii) if the original arrest or subsequent charge filed is a misdemeanor, an offense under this  
55 section is a class A misdemeanor.

56 (c) The court shall provide the victim with a certified copy of any order issued pursuant  
57 to this section if the victim can be located with reasonable effort.

58 (4) When a court dismisses criminal charges or a prosecutor moves to dismiss charges

59 against a defendant accused of a domestic violence offense, the specific reasons for dismissal shall  
60 be recorded in the court file and made a part of the statewide domestic violence network described  
61 in Section 30-6-8.

62 (5) When the privilege of confidential communication between spouses, or the testimonial  
63 privilege of spouses is invoked in any criminal proceeding in which a spouse is the victim of an  
64 alleged domestic violence offense, the victim shall be considered to be an unavailable witness  
65 under the Utah Rules of Evidence.

66 (6) The court may not approve diversion for a perpetrator of domestic violence.

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**Legislative Review Note**  
**as of 1-6-99 11:33 AM**

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

**Office of Legislative Research and General Counsel**