

28 victim unless;

29 (i) the court has reasonable cause to believe that the dismissal would benefit the victim;

30 and

31 (ii) the prosecutor stipulates to the dismissal; and

32 (f) may hold a plea in abeyance, in accordance with the provisions of Chapter 2a, making
33 treatment or any other requirement for the defendant a condition of that status.

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

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

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

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

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

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

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

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

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

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

58 (c) The court shall provide the victim with a certified copy of any order issued pursuant

59 to this section if the victim can be located with reasonable effort.

60 (4) When a court dismisses criminal charges or a prosecutor moves to dismiss charges
61 against a defendant accused of a domestic violence offense, the specific reasons for dismissal shall
62 be recorded in the court file and made a part of the statewide domestic violence network described
63 in Section 30-6-8.

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

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

Legislative Review Note
as of 2-4-99 2:14 PM

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

Office of Legislative Research and General Counsel