

SPOUSE ABUSE AMENDMENTS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Gerry A. Adair

This act modifies the Code of Criminal Procedure to require that domestic violence offenders be required to attend and satisfactorily complete a domestic violence treatment program as a part of their sentence.

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

AMENDS:

77-36-5, as last amended by Chapter 318, Laws of Utah 1996

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

Section 1. Section **77-36-5** is amended to read:

77-36-5. Sentencing -- Restricting contact with victim -- Electronic monitoring -- Counseling -- Cost assessed against defendant.

(1) When a defendant is found guilty of a crime and a condition of the sentence restricts the defendant's contact with the victim, an order may be issued or, if one has already been issued, it may be extended for the length of the defendant's probation. The order shall be in writing, and the prosecutor shall provide a certified copy of that order to the victim.

(2) In determining its sentence the court, in addition to penalties otherwise provided by law, may require the defendant to participate in~~[-(a)]~~ an electronic monitoring program, as described in Section 30-6-4.8, in accordance with the provisions of that section~~[-and]~~.

~~[(b) treatment or therapy in a domestic violence treatment program, as defined in Section 62A-2-101, licensed by the Department of Human Services.]~~

(3) The court may also require the defendant to pay all or part of the costs of counseling incurred by the victim, as well as the costs for defendant's own counseling.

(4) The court shall:

(a) assess against the defendant, as restitution, any costs for services or treatment provided



28 to the abused spouse by the Division of Child and Family Services under Section 62A-4a-106[
29 ~~The court shall~~]; and

30 (b) order those costs to be paid directly to the division or its contracted provider.

31 (5) The court shall order the defendant to obtain and satisfactorily complete treatment or
32 therapy in a domestic violence treatment program, as defined in Section 62A-2-101, that is
33 licensed by the Department of Human Services § , UNLESS THE COURT FINDS THAT THERE IS NO
33a LICENSED PROGRAM REASONABLY AVAILABLE OR THAT THE TREATMENT OR THERAPY IS NOT
33b NECESSARY § .

Legislative Review Note
as of 1-7-02 5:00 PM

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

Office of Legislative Research and General Counsel