

DOMESTIC VIOLENCE AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley G. Last

Senate Sponsor: _____

LONG TITLE

General Description:

This bill prevents a person arrested for domestic violence from personally contacting the alleged victim while the person is detained in a jail.

Highlighted Provisions:

This bill:

▶ prevents a person arrested for domestic violence from contacting the alleged victim while the person is detained in a jail ~~H→~~ ; **and**

▶ provides a penalty for violation ~~←H~~ .

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-36-1, as last amended by Laws of Utah 2010, Chapters 218 and 384

77-36-2.1, as last amended by Laws of Utah 2008, Chapter 3

77-36-2.5, as last amended by Laws of Utah 2010, Chapter 384

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

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

77-36-1. Definitions.



121 **77-36-2.5. Conditions for release after arrest for domestic violence -- Jail release**
 122 **agreements -- Jail release court orders.**

123 (1) ~~H~~→ (a) ←~~H~~ Upon arrest for domestic violence, and before the person is released on bail,
 124 recognizance, or otherwise, the person may not personally contact the alleged victim of
 125 domestic violence.

125a ~~H~~→ (b) **A person who violates Subsection (1)(a) is guilty of a class B misdemeanor.** ←~~H~~

126 [~~(1)~~] (2) Upon arrest for domestic violence, a person may not be released on bail,
 127 recognizance, or otherwise prior to the close of the next court day following the arrest, unless
 128 as a condition of that release the person is ordered by the court or agrees in writing that until
 129 further order of the court, the person will:

- 130 (a) have no personal contact with the alleged victim;
- 131 (b) not threaten or harass the alleged victim; and
- 132 (c) not knowingly enter onto the premises of the alleged victim's residence or any
 133 premises temporarily occupied by the alleged victim.

134 [~~(2)~~] (3) (a) The jail release agreement or jail release court order expires at midnight on
 135 the day on which the person arrested appears in person or by video for arraignment or an initial
 136 appearance.

137 (b) (i) If criminal charges have not been filed against the arrested person, the court
 138 may, for good cause and in writing, extend the jail release agreement or jail release court order
 139 beyond the time period under Subsection [~~(2)~~] (3)(a) as provided in Subsection [~~(2)~~] (3)(b)(ii).

140 (ii) (A) The court may extend a jail release agreement or jail release court order under
 141 Subsection [~~(2)~~] (3)(b)(i) to no longer than midnight of the third business day after the arrested
 142 person's first court appearance.

143 (B) If criminal charges are filed against the arrested person within the three business
 144 days under Subsection [~~(2)~~] (3)(b)(ii)(A), the jail release agreement or the jail release court
 145 order continues in effect until the arrested person appears in person or by video at the arrested
 146 person's next scheduled court appearance.

147 (c) If criminal charges have been filed against the arrested person the court may, upon
 148 the request of the prosecutor or the victim or upon the court's own motion, issue a pretrial
 149 protective order.

150 [~~(3)~~] (4) As a condition of release, the court may order the defendant to participate in
 151 an electronic or other monitoring program and to pay the costs associated with the program.

183 released pursuant to this section may subsequently be held without bail if there is substantial
184 evidence to support a new felony charge against him.

185 ~~[(8)]~~ (9) At the time an arrest for domestic violence is made, the arresting officer shall
186 provide the alleged victim with written notice containing:

187 (a) the release conditions described in Subsection ~~[(+)]~~ (2), and notice that those
188 release conditions shall be ordered by a court or must be agreed to by the alleged perpetrator
189 prior to release;

190 (b) notification of the penalties for violation of any jail release court order or any jail
191 release agreement executed under Subsection ~~[(+)]~~ (2);

192 (c) notification that the alleged perpetrator is to personally appear in court on the next
193 day the court is open for business after the day of the arrest;

194 (d) the address of the appropriate court in the district or county in which the alleged
195 victim resides;

196 (e) the availability and effect of any waiver of the release conditions; and

197 (f) information regarding the availability of and procedures for obtaining civil and
198 criminal protective orders with or without the assistance of an attorney.

199 ~~[(9)]~~ (10) At the time an arrest for domestic violence is made, the arresting officer shall
200 provide the alleged perpetrator with written notice containing:

201 (a) ~~H~~→ **notification that the alleged perpetrator may not contact the alleged victim**
201a **before being released;**

201b (b) ~~←H~~ the release conditions described in Subsection ~~[(+)]~~ (2) and notice that those release
202 conditions shall be ordered by a court or shall be agreed to by the alleged perpetrator prior to
203 release;

204 ~~H~~→ ~~[(b)]~~ (c) ~~←H~~ notification of the penalties for violation of any jail release court order or any
205 written jail release agreement executed under Subsection ~~[(+)]~~ (2); and

206 ~~H~~→ ~~[(c)]~~ (d) ~~←H~~ notification that the alleged perpetrator is to personally appear in court
206a on the next
207 day the court is open for business after the day of the arrest[;].

208 ~~[(10)]~~ (11) (a) If the alleged perpetrator fails to personally appear in court as scheduled,
209 the jail release court order or jail release agreement does not expire and continues in effect until
210 the alleged perpetrator makes the personal appearance in court as required by Section
211 77-36-2.6.

212 (b) If, when the alleged perpetrator personally appears in court as required by Section
213 77-36-2.6, criminal charges have not been filed against the arrested person, the court may allow