

1 **PERMANENT CRIMINAL STALKING INJUNCTION**

2 **AMENDMENTS**

3 2017 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Todd Weiler**

6 House Sponsor: Rebecca P. Edwards

7

LONG TITLE

8 **General Description:**

9 This bill amends provisions related to offenses that serve as an application for a
10 permanent criminal stalking injunction.
11

12 **Highlighted Provisions:**

13 This bill:

14 ▶ extends an application for a permanent criminal stalking injunction against a person
15 in the following instances:

- 16 • a conviction of stalking;
- 17 • a conviction of attempt to commit stalking;

18 ~~H→ [—• a conviction of conspiracy to commit stalking;~~
19 ~~—• a conviction of solicitation to commit stalking;]~~ ←H or

- 20 • a plea to any of the above accepted by the court and held in abeyance.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 76-5-106.5, as last amended by Laws of Utah 2012, Chapter 383

S.B. 226



90 substantially similar to the offense of stalking;

91 (c) has been previously convicted of any felony offense in Utah or of any crime in
92 another jurisdiction which if committed in Utah would be a felony, in which the victim of the
93 stalking offense or a member of the victim's immediate family was also a victim of the
94 previous felony offense;

95 (d) violated a permanent criminal stalking injunction issued pursuant to Subsection (9);
96 or

97 (e) has been or is at the time of the offense a cohabitant, as defined in Section
98 78B-7-102, of the victim.

99 (8) Stalking is a second degree felony if the offender:

100 (a) used a dangerous weapon as defined in Section 76-1-601 or used other means or
101 force likely to produce death or serious bodily injury, in the commission of the crime of
102 stalking;

103 (b) has been previously convicted two or more times of the offense of stalking;

104 (c) has been convicted two or more times in another jurisdiction or jurisdictions of
105 offenses that are substantially similar to the offense of stalking;

106 (d) has been convicted two or more times, in any combination, of offenses under
107 Subsection (7)(a), (b), or (c);

108 (e) has been previously convicted two or more times of felony offenses in Utah or of
109 crimes in another jurisdiction or jurisdictions which, if committed in Utah, would be felonies,
110 in which the victim of the stalking was also a victim of the previous felony offenses; or

111 (f) has been previously convicted of an offense under Subsection (7)(d) or (e).

112 ~~[(9) (a) A conviction for stalking or a plea accepted by the court and held in abeyance
113 for a period of time serves as an application for a permanent criminal stalking injunction
114 limiting the contact between the defendant and the victim.]~~

115 (9) (a) The following serve as an application for a permanent criminal stalking
116 injunction limiting the contact between the defendant and the victim:

117 (i) a conviction for:

118 (A) stalking; $\hat{H} \rightarrow$ or $\leftarrow \hat{H}$

119 (B) attempt to commit stalking;

120 $\hat{H} \rightarrow$ ~~[(C) conspiracy to commit stalking; or~~ \oplus

121 ~~_____ (D) solicitation to commit stalking;]~~ ←H or

122 (ii) a plea to any of the offenses described in Subsection (9)(a)(i) accepted by the court
123 and held in abeyance for a period of time.

124 (b) A permanent criminal stalking injunction shall be issued by the court at the time of
125 the conviction. The court shall give the defendant notice of the right to request a hearing.

126 (c) If the defendant requests a hearing under Subsection (9)(b), it shall be held at the
127 time of the conviction unless the victim requests otherwise, or for good cause.

128 (d) If the conviction was entered in a justice court, a certified copy of the judgment and
129 conviction or a certified copy of the court's order holding the plea in abeyance shall be filed by
130 the victim in the district court as an application and request for a hearing for a permanent
131 criminal stalking injunction.

132 (10) A permanent criminal stalking injunction shall be issued by the district court
133 granting the following relief where appropriate:

134 (a) an order:

135 (i) restraining the defendant from entering the residence, property, school, or place of
136 employment of the victim; and

137 (ii) requiring the defendant to stay away from the victim, except as provided in
138 Subsection (11), and to stay away from any specified place that is named in the order and is
139 frequented regularly by the victim;

140 (b) an order restraining the defendant from making contact with or regarding the
141 victim, including an order forbidding the defendant from personally or through an agent
142 initiating any communication, except as provided in Subsection (11), likely to cause annoyance
143 or alarm to the victim, including personal, written, or telephone contact with or regarding the
144 victim, with the victim's employers, employees, coworkers, friends, associates, or others with
145 whom communication would be likely to cause annoyance or alarm to the victim; and

146 (c) any other orders the court considers necessary to protect the victim and members of
147 the victim's immediate family or household.

148 (11) If the victim and defendant have minor children together, the court may consider
149 provisions regarding the defendant's exercise of custody and parent-time rights while ensuring
150 the safety of the victim and any minor children. If the court issues a permanent criminal
151 stalking injunction, but declines to address custody and parent-time issues, a copy of the