

Utah Code § 76-5-106.5 — Stalking

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76-5-106.5. Stalking -- Definitions -- Injunction -- Penalties -- Duties of law enforcement officer.

(1)

(a) As used in this section:

(i) "Course of conduct" means two or more acts directed at or toward a specific individual, including:

(A) acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or

↪ communicates to or about an individual, or interferes with an individual's property:

(I) directly, indirectly, or through any third party; and

(II) by any action, method, device, or means; or

(B) when the actor engages in any of the following acts or causes someone else to engage in any of

↪ these acts:

(I) approaches or confronts an individual;

(II) appears at the individual's workplace or contacts the individual's employer or coworker;

(III) appears at an individual's residence or contacts an individual's neighbor, or enters property

↪ owned, leased, or occupied by an individual;

(IV) sends material by any means to the individual or for the purpose of obtaining or disseminating

↪ information about or communicating with the individual to a member of the individual's family

↪ or household, employer, coworker, friend, or associate of the individual;

(V) places an object on or delivers an object to property owned, leased, or occupied by an individual,

↪ or to the individual's place of employment with the intent that the object be delivered to

↪ the individual; or

(VI) uses a computer, the Internet, text messaging, or any other electronic means to commit an act

↪ that is a part of the course of conduct.

(ii)

(A) "Emotional distress" means significant mental or psychological suffering, whether or not medical

↪ or other professional treatment or counseling is required.

(B) "Emotional distress" includes significant mental or psychological suffering resulting from harm to

↪ an animal.

(iii) "Immediate family" means a spouse, parent, child, sibling, or any other individual who

↪ regularly resides in the household or who regularly resided in the household within the prior

↪ six months.

(iv) "Private investigator" means the same as that term is defined in Section 76-12-305.

(v) "Reasonable person" means a reasonable person in the victim's circumstances.

(vi) "Stalking" means an offense as described in Subsection (2).

(vii) "Text messaging" means a communication in the form of electronic text or one or more

↪ electronic images sent by the actor from a telephone or computer to another individual's

↪ telephone or computer by addressing the communication to the recipient's telephone number.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits stalking if the actor intentionally or knowingly:

(a) engages in a course of conduct directed at a specific individual and knows or is reckless as to

↪ whether the course of conduct would cause a reasonable person:

(i) to fear for the individual's own safety or the safety of a third individual; or

(ii) to suffer other emotional distress; or

(b) violates:

(i) a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions; or

(ii) a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal

↪ Stalking Injunctions.

(3)

(a) A violation of Subsection (2) is a class A misdemeanor:

(i) upon the actor's first violation of Subsection (2); or

(ii) if the actor violated a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil

↪ Stalking Injunctions.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if the

↪ actor:

(i) has been previously convicted of an offense of stalking;

(ii) has been previously convicted in another jurisdiction of an offense that is substantially

↪ similar to the offense of stalking;

- (iii) has been previously convicted of any felony offense in Utah or of any crime in another
 - ↪ jurisdiction which if committed in Utah would be a felony, in which the victim of the
 - ↪ stalking offense or a member of the victim's immediate family was also a victim of the
 - ↪ previous felony offense;
- (iv) violated a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9,
 - ↪ Criminal Stalking Injunctions; or
- (v) has been or is at the time of the offense a cohabitant, as defined in Section 78B-7-102, of the
 - ↪ victim.
- (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a second degree felony
 - ↪ if the actor:
 - (i) used a dangerous weapon or used other means or force likely to produce death or serious bodily
 - ↪ injury, in the commission of the crime of stalking;
 - (ii) has been previously convicted two or more times of the offense of stalking;
 - (iii) has been convicted two or more times in another jurisdiction or jurisdictions of offenses that
 - ↪ are substantially similar to the offense of stalking;
 - (iv) has been convicted two or more times, in any combination, of offenses under Subsection
 - ↪ (3)(b)(i), (ii), or (iii);
 - (v) has been previously convicted two or more times of felony offenses in Utah or of crimes in another
 - ↪ jurisdiction or jurisdictions which, if committed in Utah, would be felonies, in which the
 - ↪ victim of the stalking was also a victim of the previous felony offenses; or
 - (vi) has been previously convicted of an offense under Subsection (3)(b)(iv) or (v).
- (4) In a prosecution under this section, it is not a defense that the actor:
 - (a) was not given actual notice that the course of conduct was unwanted; or
 - (b) did not intend to cause the victim fear or other emotional distress.
- (5) An offense of stalking may be prosecuted under this section in any jurisdiction where one or more
 - ↪ of the acts that is part of the course of conduct was initiated or caused an effect on the
 - ↪ victim.
- (6)
 - (a) Except as provided in Subsection (6)(b), an actor does not violate this section if:
 - (i) the actor is acting:
 - (A) in the actor's official capacity as a law enforcement officer, governmental investigator, or
 - ↪ private investigator; and
 - (B) for a legitimate official or business purpose; or
 - (ii)
 - (A) the actor is the owner of a business;
 - (B) the actor engages in a course of conduct that is reasonable and necessary to protect the actor's
 - ↪ ownership interest in the business;
 - (C) the conduct is not directed at a cohabitant, as that term is defined in Section 78B-7-102; and
 - (D) the actor's conduct does not violate any other provision of this code.
 - (b) A private investigator is not exempt from this section if the private investigator engages in
 - ↪ conduct that would constitute a ground for disciplinary action under Section 53-9-118.
- (7)
 - (a) A permanent criminal stalking injunction limiting the contact between the actor and victim may be
 - ↪ filed in accordance with Section 78B-7-902.
 - (b) This section does not preclude the filing of criminal information for stalking based on the same
 - ↪ act which is the basis for the violation of the stalking injunction issued under Title 78B,
 - ↪ Chapter 7, Part 7, Civil Stalking Injunctions, or a permanent criminal stalking injunction
 - ↪ issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.
- (8)
 - (a) A law enforcement officer who responds to an allegation of stalking shall use all reasonable means
 - ↪ to protect the victim and prevent further violence, including:
 - (i) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety
 - ↪ of the victim and any family or household member;
 - (ii) confiscating the weapon or weapons involved in the alleged stalking;
 - (iii) making arrangements for the victim and any child to obtain emergency housing or shelter;
 - (iv) providing protection while the victim removes essential personal effects;
 - (v) arranging, facilitating, or providing for the victim and any child to obtain medical treatment;
 - ↪ and

- (vi) arranging, facilitating, or providing the victim with immediate and adequate notice of the
 - ↪ rights of victims and of the remedies and services available to victims of stalking, in
 - ↪ accordance with Subsection (8)(b).
- (b)
 - (i) A law enforcement officer shall give written notice to the victim in simple language, describing
 - ↪ the rights and remedies available under this section and Title 78B, Chapter 7, Part 7, Civil
 - ↪ Stalking Injunctions.
 - (ii) The written notice shall also include:
 - (A) a statement that the forms needed in order to obtain a stalking injunction are available from the
 - ↪ court clerk's office in the judicial district where the victim resides or is temporarily
 - ↪ domiciled; and
 - (B) a list of shelters, services, and resources available in the appropriate community, together with
 - ↪ telephone numbers, to assist the victim in accessing any needed assistance.
 - (c) If a weapon is confiscated under this Subsection (8), the law enforcement agency shall return the
 - ↪ weapon to the individual from whom the weapon is confiscated if a stalking injunction is not
 - ↪ issued or once the stalking injunction is terminated.

Amended by Chapter 173, 2025 General Session

Amended by Chapter 238, 2025 General Session

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