

COHABITANT ABUSE ACT AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Angela Romero

Senate Sponsor: _____

LONG TITLE

General Description:

This bill defines the term "intimate partner."

Highlighted Provisions:

This bill:

▶ defines the term "intimate partner" within the Cohabitant Abuse Procedures Act and the Cohabitant Abuse Act.

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 2016, Chapter 422

78B-7-102, as last amended by Laws of Utah 2013, Chapter 348

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.

As used in this chapter:

(1) "Cohabitant" means the same as that term is defined in Section **78B-7-102**.



- 28 (2) "Department" means the Department of Public Safety.
- 29 (3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter
30 3, Divorce.
- 31 (4) "Domestic violence" or "domestic violence offense" means any criminal offense
32 involving violence or physical harm or threat of violence or physical harm, or any attempt,
33 conspiracy, or solicitation to commit a criminal offense involving violence or physical harm,
34 when committed by one cohabitant against another. "Domestic violence" or "domestic
35 violence offense" also means commission or attempt to commit, any of the following offenses
36 by one cohabitant against another:
- 37 (a) aggravated assault, as described in Section 76-5-103;
 - 38 (b) assault, as described in Section 76-5-102;
 - 39 (c) criminal homicide, as described in Section 76-5-201;
 - 40 (d) harassment, as described in Section 76-5-106;
 - 41 (e) electronic communication harassment, as described in Section 76-9-201;
 - 42 (f) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections
43 76-5-301, 76-5-301.1, and 76-5-302;
 - 44 (g) mayhem, as described in Section 76-5-105;
 - 45 (h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and
46 Section 76-5b-201, Sexual Exploitation of a Minor;
 - 47 (i) stalking, as described in Section 76-5-106.5;
 - 48 (j) unlawful detention or unlawful detention of a minor, as described in Section
49 76-5-304;
 - 50 (k) violation of a protective order or ex parte protective order, as described in Section
51 76-5-108;
 - 52 (l) any offense against property described in Title 76, Chapter 6, Part 1, Property
53 Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6,
54 Part 3, Robbery;
 - 55 (m) possession of a deadly weapon with intent to assault, as described in Section
56 76-10-507;
 - 57 (n) discharge of a firearm from a vehicle, near a highway, or in the direction of any
58 person, building, or vehicle, as described in Section 76-10-508;

59 (o) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly
60 conduct is the result of a plea agreement in which the defendant was originally charged with a
61 domestic violence offense otherwise described in this Subsection (4). Conviction of disorderly
62 conduct as a domestic violence offense, in the manner described in this Subsection (4)(o), does
63 not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is
64 exempt from the provisions of the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.; or

65 (p) child abuse as described in Section 76-5-109.1.

66 (5) "Intimate partner" means, as it relates to an individual:

67 (a) the individual's current or former spouse;

68 (b) the other parent of the individual's child;

69 (c) the biological parent of the individual's unborn child; or

70 (d) another individual who resides or has resided with the individual in a romantic,
71 dating, or sexual relationship.

72 [~~5~~] (6) "Jail release agreement" means a written agreement:

73 (a) specifying and limiting the contact a person arrested for a domestic violence offense
74 may have with an alleged victim or other specified individuals; and

75 (b) specifying other conditions of release from jail as required in Subsection
76 77-36-2.5(2).

77 [~~6~~] (7) "Jail release court order" means a written court order:

78 (a) specifying and limiting the contact a person arrested for a domestic violence offense
79 may have with an alleged victim or other specified individuals; and

80 (b) specifying other conditions of release from jail as required in Subsection
81 77-36-2.5(2).

82 [~~7~~] (8) "Marital status" means married and living together, divorced, separated, or not
83 married.

84 [~~8~~] (9) "Married and living together" means a man and a woman whose marriage was
85 solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

86 [~~9~~] (10) "Not married" means any living arrangement other than married and living
87 together, divorced, or separated.

88 [~~10~~] (11) "Pretrial protective order" means a written order:

89 (a) specifying and limiting the contact a person who has been charged with a domestic

90 violence offense may have with an alleged victim or other specified individuals; and

91 (b) specifying other conditions of release pursuant to Subsection 77-36-2.5(2),

92 Subsection 77-36-2.6(3), or Section 77-36-2.7, pending trial in the criminal case.

93 ~~[(11)]~~ (12) "Sentencing protective order" means a written order of the court as part of
94 sentencing in a domestic violence case that limits the contact a person who has been convicted
95 of a domestic violence offense may have with a victim or other specified individuals pursuant
96 to Sections 77-36-5 and 77-36-5.1.

97 ~~[(12)]~~ (13) "Separated" means a man and a woman who have had their marriage
98 solemnized under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

99 ~~[(13)]~~ (14) "Victim" means a cohabitant who has been subjected to domestic violence.

100 Section 2. Section 78B-7-102 is amended to read:

101 **78B-7-102. Definitions.**

102 As used in this chapter:

103 (1) "Abuse" means intentionally or knowingly causing or attempting to cause a
104 cohabitant physical harm or intentionally or knowingly placing a cohabitant in reasonable fear
105 of imminent physical harm.

106 (2) "Cohabitant" means an emancipated person pursuant to Section 15-2-1 or a person
107 who is 16 years of age or older who:

108 (a) is or was a spouse of the other party;

109 (b) is or was living as if a spouse of the other party;

110 (c) is related by blood or marriage to the other party;

111 (d) has or had one or more children in common with the other party;

112 (e) is the biological parent of the other party's unborn child; or

113 (f) resides or has resided in the same residence as the other party.

114 (3) Notwithstanding Subsection (2), "cohabitant" does not include:

115 (a) the relationship of natural parent, adoptive parent, or step-parent to a minor; or

116 (b) the relationship between natural, adoptive, step, or foster siblings who are under 18
117 years of age.

118 (4) "Court clerk" means a district court clerk.

119 (5) "Domestic violence" means the same as that term is defined in Section 77-36-1.

120 (6) "Ex parte protective order" means an order issued without notice to the defendant in

121 accordance with this chapter.

122 (7) "Foreign protection order" is as defined in Section [78B-7-302](#).

123 (8) "Intimate partner" means the same as the term is defined in Section [77-36-1](#), unless
124 otherwise specified.

125 [~~8~~] (9) "Law enforcement unit" or "law enforcement agency" means any public
126 agency having general police power and charged with making arrests in connection with
127 enforcement of the criminal statutes and ordinances of this state or any political subdivision.

128 [~~9~~] (10) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace
129 Officer Classifications.

130 [~~10~~] (11) "Protective order" means an order issued pursuant to this chapter
131 subsequent to a hearing on the petition, of which the petitioner and respondent have been given
132 notice in accordance with this chapter.

Legislative Review Note
Office of Legislative Research and General Counsel