

1 **Cohabitant Definition Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carol S. Moss**

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3 **LONG TITLE**

4 **General Description:**

5 This bill addresses the definition of cohabitant.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ amends the definition of cohabitant;
- 9 ▶ defines terms related to the definition of cohabitant; and
- 10 ▶ makes technical and conforming changes.

11 **Money Appropriated in this Bill:**

12 None

13 **Other Special Clauses:**

14 None

15 **Utah Code Sections Affected:**

16 AMENDS:

17 **76-2-409**, as enacted by Laws of Utah 2020, Chapter 411

18 **78B-7-102**, as last amended by Laws of Utah 2023, Chapter 170

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

21 Section 1. Section **76-2-409** is amended to read:

22 **76-2-409 . Battered person mitigation.**

23 (1) As used in this section:

24 (a) "Abuse" means the same as that term is defined in Section 78B-7-102.

25 [(b) "Cohabitant" means:]

26 [(i) the same as that term is defined in Section 78B-7-102; or]

27 [(ii) the relationship of a minor and a natural parent, an adoptive parent, a stepparent,

28 or an individual living with the minor's natural parent as if a stepparent to the

29 minor.]

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

31 (ii) "Cohabitant" includes, notwithstanding the definition in Section 78B-7-102:

- 32           (A) an individual who is a minor child if the individual's parent committed the  
33           criminal offense; or
- 34           (B) if the individual who committed the offense is a minor child, an individual  
35           who is the parent or stepparent of the minor child or an individual living with  
36           the minor child's parent as if a stepparent to the minor child.
- 37           (c) "Minor child" means the same as that term is defined in Section 81-1-101.
- 38           (d) "Parent" means the same as that term is defined in Section 81-1-101.
- 39 (2)(a) An individual is entitled to battered person mitigation if:
- 40           (i) the individual committed a criminal offense that was not legally justified;
- 41           (ii) the individual committed the criminal offense against a cohabitant who  
42           demonstrated a pattern of abuse against the individual or another cohabitant of the  
43           individual; and
- 44           (iii) the individual reasonably believed that the criminal offense was necessary to end  
45           the pattern of abuse.
- 46           (b) A reasonable belief under Subsection (2)(a) is determined from the viewpoint of a  
47           reasonable person in the individual's circumstances, as the individual's circumstances  
48           are perceived by the individual.
- 49 (3) An individual claiming mitigation under Subsection (2)(a) has the burden of proving, by  
50           clear and convincing evidence, each element that would entitle the individual to  
51           mitigation under Subsection (2)(a).
- 52 (4) Mitigation under Subsection (2)(a) results in a one-step reduction of the level of offense  
53           of which the individual is convicted.
- 54 (5)(a) If the trier of fact is a jury, an individual is not entitled to mitigation under  
55           Subsection (2)(a) unless the jury:
- 56           (i) finds the individual proved, in accordance with Subsection (3), that the individual  
57           is entitled to mitigation by unanimous vote; and
- 58           (ii) returns a special verdict for the reduced charge at the same time the jury returns  
59           the general verdict.
- 60           (b) A nonunanimous vote by the jury on the question of mitigation under Subsection  
61           (2)(a) does not result in a hung jury.
- 62 (6) An individual intending to claim mitigation under Subsection (2)(a) at the individual's  
63           trial shall give notice of the individual's intent to claim mitigation under Subsection  
64           (2)(a) to the prosecuting agency at least 30 days before the individual's trial.
- 65           Section 2. Section **78B-7-102** is amended to read:

66 **78B-7-102 . Definitions.**

67 As used in this chapter:

68 (1) "Abuse" means, except as provided in Section 78B-7-201, intentionally or knowingly  
69 causing or attempting to cause another individual physical harm or intentionally or  
70 knowingly placing another individual in reasonable fear of imminent physical harm.

71 (2) "Affinity" means the same as that term is defined in Section 76-1-101.5.

72 (3) "Civil protective order" means an order issued, subsequent to a hearing on the petition,  
73 of which the petitioner and respondent have been given notice, under:

74 (a) Part 2, Child Protective Orders;

75 (b) Part 4, Dating Violence Protective Orders;

76 (c) Part 5, Sexual Violence Protective Orders;

77 (d) Part 6, Cohabitant Abuse Protective Orders; or

78 (e) Part 11, Workplace Violence Protective Orders.

79 (4) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil  
80 Stalking Injunctions.81 (5)(a) "Cohabitant" means an ~~[emancipated individual under Section 15-2-1 or an~~  
82 ~~individual who is 16 years old or older who:]~~ individual who:83 (i) is emancipated as described in Section 15-2-1 or is 16 years old or older; and84 ~~[(i)]~~ (ii)(A) is or was a spouse of the other party;85 ~~[(ii)]~~ (B) is or was living as if a spouse of the other party;86 ~~[(iii)]~~ (C) is related by blood or marriage to the other party as the individual's  
87 parent, grandparent, sibling, or any other individual related to the individual by  
88 consanguinity or affinity to the second degree;89 ~~[(iv)]~~ (D) has or had one or more children in common with the other party;90 ~~[(v)]~~ (E) is the biological parent of the other party's unborn child;91 ~~[(vi)]~~ (F) resides or has resided in the same residence as the other party; or92 ~~[(vii)]~~ (G) is or was in a consensual sexual relationship with the other party.93 ~~[(b) "Cohabitant" does not include:]~~94 ~~[(i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or]~~95 ~~[(ii) the relationship between natural, adoptive, step, or foster siblings who are under~~  
96 ~~18 years old.]~~97 (b) "Cohabitant" does not include, if the other party is younger than 18 years old:98 (i) an individual who is the parent or step-parent of the other party; or99 (ii) an individual who is younger than 18 years old and is the sibling, step-sibling, or

- 100            foster sibling of the other party.
- 101    (6) "Consanguinity" means the same as that term is defined in Section 76-1-101.5.
- 102    (7) "Criminal protective order" means an order issued under Part 8, Criminal Protective
- 103        Orders.
- 104    (8) "Criminal stalking injunction" means a stalking injunction issued under Part 9, Criminal
- 105        Stalking Injunctions.
- 106    (9) "Court clerk" means a district court clerk.
- 107    (10)(a) "Dating partner" means an individual who:
- 108        (i)(A) is an emancipated individual under Section 15-2-1 or Title 80, Chapter 7,
- 109            Emancipation; or
- 110            (B) is 18 years old or older; and
- 111        (ii) is, or has been, in a dating relationship with the other party.
- 112    (b) "Dating partner" does not include an intimate partner.
- 113    (11)(a) "Dating relationship" means a social relationship of a romantic or intimate
- 114        nature, or a relationship which has romance or intimacy as a goal by one or both
- 115        parties, regardless of whether the relationship involves sexual intimacy.
- 116    (b) "Dating relationship" does not include casual fraternization in a business,
- 117        educational, or social context.
- 118    (c) In determining, based on a totality of the circumstances, whether a dating
- 119        relationship exists:
- 120        (i) all relevant factors shall be considered, including:
- 121            (A) whether the parties developed interpersonal bonding above a mere casual
- 122            fraternization;
- 123            (B) the length of the parties' relationship;
- 124            (C) the nature and the frequency of the parties' interactions, including
- 125            communications indicating that the parties intended to begin a dating
- 126            relationship;
- 127            (D) the ongoing expectations of the parties, individual or jointly, with respect to
- 128            the relationship;
- 129            (E) whether, by statement or conduct, the parties demonstrated an affirmation of
- 130            their relationship to others; and
- 131            (F) whether other reasons exist that support or detract from a finding that a dating
- 132            relationship exists; and
- 133        (ii) it is not necessary that all, or a particular number, of the factors described in

- 134 Subsection (11)(c)(i) are found to support the existence of a dating relationship.
- 135 (12) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 136 (13) "Ex parte civil protective order" means an order issued without notice to the
- 137 respondent under:
- 138 (a) Part 2, Child Protective Orders;
- 139 (b) Part 4, Dating Violence Protective Orders;
- 140 (c) Part 5, Sexual Violence Protective Orders;
- 141 (d) Part 6, Cohabitant Abuse Protective Orders; or
- 142 (e) Part 11, Workplace Violence Protective Orders.
- 143 (14) "Ex parte civil stalking injunction" means a stalking injunction issued without notice to
- 144 the respondent under Part 7, Civil Stalking Injunctions.
- 145 (15) "Foreign protection order" means the same as that term is defined in Section 78B-7-302.
- 146 (16) "Household animal" means an animal that is tamed and kept as a pet.
- 147 (17) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.
- 148 (18) "Law enforcement unit" or "law enforcement agency" means any public agency having
- 149 general police power and charged with making arrests in connection with enforcement
- 150 of the criminal statutes and ordinances of this state or any political subdivision.
- 151 (19) "Parent" means the same as that term is defined in Section 81-1-101.
- 152 [~~(19)~~] (20) "Peace officer" means [~~those individuals specified~~] an individual described in
- 153 Title 53, Chapter 13, Peace Officer Classifications.
- 154 [~~(20)~~] (21) "Qualifying domestic violence offense" means the same as that term is defined in
- 155 Section 77-36-1.1.
- 156 [~~(21)~~] (22) "Respondent" means the individual against whom enforcement of a protective
- 157 order is sought.
- 158 [~~(22)~~] (23) "Stalking" means the same as that term is defined in Section 76-5-106.5.
- 159 Section 3. **Effective Date.**
- 160 This bill takes effect on May 7, 2025.