

**DOMESTIC VIOLENCE REVISIONS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Andrew Stoddard**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions related to domestic violence.

**Highlighted Provisions:**

This bill:

- ▶ amends definitions related to domestic violence; and
- ▶ makes technical and conforming changes.

**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 2022, Chapters 185, 430

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

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*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" includes commission or attempt to commit, any of the following offenses by  
36 one cohabitant against another:
- 37           (a) aggravated assault, as described in Section 76-5-103;
- 38           (b) aggravated cruelty to an animal, as described in Subsection 76-9-301(4), with the  
39 intent to harass or threaten the other cohabitant;
- 40           (c) assault, as described in Section 76-5-102;
- 41           (d) criminal homicide, as described in Section 76-5-201;
- 42           (e) harassment, as described in Section 76-5-106;
- 43           (f) electronic communication harassment, as described in Section 76-9-201;
- 44           (g) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections  
45 76-5-301, 76-5-301.1, and 76-5-302;
- 46           (h) mayhem, as described in Section 76-5-105;
- 47           (i) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and  
48 sexual exploitation of a minor and aggravated sexual exploitation of a minor, as described in  
49 Sections 76-5b-201 and 76-5b-201.1;
- 50           (j) stalking, as described in Section 76-5-106.5;
- 51           (k) unlawful detention or unlawful detention of a minor, as described in Section  
52 76-5-304;
- 53           (l) violation of a protective order or ex parte protective order, as described in Section  
54 76-5-108;
- 55           (m) any offense against property described in Title 76, Chapter 6, Part 1, Property  
56 Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6,  
57 Part 3, Robbery;
- 58           (n) possession of a deadly weapon with criminal intent, as described in Section

59 [76-10-507](#);

60 (o) discharge of a firearm from a vehicle, near a highway, or in the direction of any  
61 person, building, or vehicle, as described in Section [76-10-508](#);

62 (p) disorderly conduct, as defined in Section [76-9-102](#), if a conviction or adjudication  
63 of disorderly conduct is the result of a plea agreement in which the perpetrator was originally  
64 charged with a domestic violence offense otherwise described in this Subsection (4), except  
65 that a conviction or adjudication of disorderly conduct as a domestic violence offense, in the  
66 manner described in this Subsection (4)(p), does not constitute a misdemeanor crime of  
67 domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18  
68 U.S.C. Sec. 921 et seq.;

69 (q) child abuse, as described in ~~[Section]~~ Sections [76-5-109](#), [76-5-109.2](#), [76-5-110](#), and  
70 [76-5-114](#);

71 (r) abuse of a vulnerable adult, as described in Sections [76-5-111](#), [76-5-111.2](#),  
72 [76-5-111.3](#), and [76-5-111.4](#);

73 ~~[(r)]~~ (s) threatening use of a dangerous weapon, as described in Section [76-10-506](#);

74 ~~[(s)]~~ (t) threatening violence, as described in Section [76-5-107](#);

75 ~~[(t)]~~ (u) tampering with a witness, as described in Section [76-8-508](#);

76 ~~[(u)]~~ (v) retaliation against a witness or victim, as described in Section [76-8-508.3](#);

77 ~~[(v)]~~ (w) unlawful distribution of an intimate image, as described in Section [76-5b-203](#),  
78 or unlawful distribution of a counterfeit intimate image, as described in Section [76-5b-205](#);

79 ~~[(w)]~~ (x) sexual battery, as described in Section [76-9-702.1](#);

80 ~~[(x)]~~ (y) voyeurism, as described in Section [76-9-702.7](#);

81 ~~[(y)]~~ (z) damage to or interruption of a communication device, as described in Section  
82 [76-6-108](#); or

83 ~~[(z)]~~ (aa) an offense described in Subsection [78B-7-806\(1\)](#).

84 (5) "Jail release agreement" means the same as that term is defined in Section  
85 [78B-7-801](#).

86 (6) "Jail release court order" means the same as that term is defined in Section  
87 [78B-7-801](#).

88 (7) "Marital status" means married and living together, divorced, separated, or not  
89 married.

90 (8) "Married and living together" means a couple whose marriage was solemnized  
91 under Section 30-1-4 or 30-1-6 and who are living in the same residence.

92 (9) "Not married" means any living arrangement other than married and living together,  
93 divorced, or separated.

94 (10) "Protective order" includes an order issued under Subsection 78B-7-804(3).

95 (11) "Pretrial protective order" means a written order:

96 (a) specifying and limiting the contact a person who has been charged with a domestic  
97 violence offense may have with an alleged victim or other specified individuals; and

98 (b) specifying other conditions of release under Section 78B-7-802 or 78B-7-803,  
99 pending trial in the criminal case.

100 (12) "Sentencing protective order" means a written order of the court as part of  
101 sentencing in a domestic violence case that limits the contact an individual who is convicted or  
102 adjudicated of a domestic violence offense may have with a victim or other specified  
103 individuals under Section 78B-7-804.

104 (13) "Separated" means a couple who have had their marriage solemnized under  
105 Section 30-1-4 or 30-1-6 and who are not living in the same residence.

106 (14) "Victim" means a cohabitant who has been subjected to domestic violence.

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

108 **78B-7-102. Definitions.**

109 As used in this chapter:

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

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

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

116 (a) Part 2, Child Protective Orders;

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

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

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

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

121 (4) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil  
122 Stalking Injunctions.

123 (5) (a) "Cohabitant" means an emancipated individual under Section 15-2-1 or an  
124 individual who is 16 years old or older who:

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

126 (ii) is or was living as if a spouse of the other party;

127 (iii) is related by blood or marriage to the other party as the individual's parent,  
128 grandparent, sibling, or any other individual related to the individual by consanguinity or  
129 affinity to the second degree;

130 (iv) has or had one or more children in common with the other party;

131 (v) is the biological parent of the other party's unborn child;

132 (vi) resides or has resided in the same residence as the other party; or

133 (vii) is or was in a consensual sexual relationship with the other party.

134 (b) "Cohabitant" does not include[~~±~~]

135 [~~(i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or~~]

136 [(~~ii~~)] the relationship between natural, adoptive, step, or foster siblings who are both  
137 under 18 years old.

138 (6) "Consanguinity" means the same as that term is defined in Section 76-1-101.5.

139 (7) "Criminal protective order" means an order issued under Part 8, Criminal Protective  
140 Orders.

141 (8) "Criminal stalking injunction" means a stalking injunction issued under Part 9,  
142 Criminal Stalking Injunctions.

143 (9) "Court clerk" means a district court clerk.

144 (10) (a) "Dating partner" means an individual who:

145 (i) (A) is an emancipated individual under Section 15-2-1 or Title 80, Chapter 7,  
146 Emancipation; or

147 (B) is 18 years old or older; and

148 (ii) is, or has been, in a dating relationship with the other party.

149 (b) "Dating partner" does not include an intimate partner.

150 (11) (a) "Dating relationship" means a social relationship of a romantic or intimate  
151 nature, or a relationship which has romance or intimacy as a goal by one or both parties,

152 regardless of whether the relationship involves sexual intimacy.

153 (b) "Dating relationship" does not include casual fraternization in a business,  
154 educational, or social context.

155 (c) In determining, based on a totality of the circumstances, whether a dating  
156 relationship exists:

157 (i) all relevant factors shall be considered, including:

158 (A) whether the parties developed interpersonal bonding above a mere casual  
159 fraternization;

160 (B) the length of the parties' relationship;

161 (C) the nature and the frequency of the parties' interactions, including communications  
162 indicating that the parties intended to begin a dating relationship;

163 (D) the ongoing expectations of the parties, individual or jointly, with respect to the  
164 relationship;

165 (E) whether, by statement or conduct, the parties demonstrated an affirmation of their  
166 relationship to others; and

167 (F) whether other reasons exist that support or detract from a finding that a dating  
168 relationship exists; and

169 (ii) it is not necessary that all, or a particular number, of the factors described in  
170 Subsection (11)(c)(i) are found to support the existence of a dating relationship.

171 (12) "Domestic violence" means the same as that term is defined in Section [77-36-1](#).

172 (13) "Ex parte civil protective order" means an order issued without notice to the  
173 respondent under:

174 (a) Part 2, Child Protective Orders;

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

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

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

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

179 (14) "Ex parte civil stalking injunction" means a stalking injunction issued without  
180 notice to the respondent under Part 7, Civil Stalking Injunctions.

181 (15) "Foreign protection order" means the same as that term is defined in Section  
182 [78B-7-302](#).

- 183 (16) "Household animal" means an animal that is tamed and kept as a pet.
- 184 (17) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.
- 185 (18) "Law enforcement unit" or "law enforcement agency" means any public agency  
186 having general police power and charged with making arrests in connection with enforcement  
187 of the criminal statutes and ordinances of this state or any political subdivision.
- 188 (19) "Peace officer" means those individuals specified in Title 53, Chapter 13, Peace  
189 Officer Classifications.
- 190 (20) "Qualifying domestic violence offense" means the same as that term is defined in  
191 Section [77-36-1.1](#).
- 192 (21) "Respondent" means the individual against whom enforcement of a protective  
193 order is sought.
- 194 (22) "Stalking" means the same as that term is defined in Section [76-5-106.5](#).
- 195 Section 3. **Effective date.**
- 196 This bill takes effect on May 1, 2024.