

**BATTERED PERSON MITIGATION AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel W. Thatcher**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill provides for mitigation of certain criminal charges related to cohabitant abuse.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides for an offense reduction for an individual convicted of an offense if the individual committed the offense as a result of cohabitant abuse; and
- ▶ provides procedures for proving and finding an individual is entitled to the offense reduction in court.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**76-2-409**, Utah Code Annotated 1953

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

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

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



28           (1) As used in this section:  
29           (a) "Abuse" means the same as that term is defined in Section [78B-7-102](#).  
30           (b) "Cohabitant" means:  
31           (i) the same as that term is defined in Section [78B-7-102](#); or  
32           (ii) the relationship of a minor and a natural parent, an adoptive parent, a stepparent, or  
33 an individual living with the minor's natural parent as if a stepparent to the minor.  
34           (2) (a) An individual is entitled to battered person mitigation if:  
35           (i) the individual committed a criminal offense that was not legally justified;  
36           (ii) the individual committed the criminal offense against a cohabitant who  
37 demonstrated a pattern of abuse against the individual or another cohabitant of the individual;  
38 and  
39           (iii) the individual reasonably believed that the criminal offense was necessary to end  
40 the pattern of abuse.  
41           (b) A reasonable belief under Subsection (2)(a) is determined from the viewpoint of a  
42 reasonable person in the individual's circumstances, as the individual's circumstances are  
43 perceived by the individual.  
44           (3) An individual claiming mitigation under Subsection (2)(a) has the burden of  
45 proving, by clear and convincing evidence, each element that would entitle the individual to  
46 mitigation under Subsection (2)(a).  
47           (4) Mitigation under Subsection (2)(a) results in a one-step reduction of the level of  
48 offense of which the individual is convicted.  
49           (5) If the trier of fact is a jury, an individual is not entitled to mitigation under  
50 Subsection (2)(a) unless the jury:  
51           (a) finds the individual proved, in accordance with Subsection (3), that the individual is  
52 entitled to mitigation by unanimous vote; and  
53           (b) returns a special verdict for the reduced charge at the same time the jury returns the  
54 general verdict.