

**DOMESTIC VIOLENCE STATISTICS REPORTING**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lee B. Perry**

Senate Sponsor: Peter C. Knudson

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**LONG TITLE**

**General Description:**

This bill modifies Title 77, Chapter 36, Cohabitant Abuse Procedures Act.

**Highlighted Provisions:**

This bill:

▸ requires the Department of Public Safety to present a report on domestic violence statistics to the Law Enforcement and Criminal Justice Interim Committee by May 31, 2013; and

▸ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an immediate effective date.

**Utah Code Sections Affected:**

AMENDS:

**77-36-2.2**, as last amended by Laws of Utah 2008, Chapter 375

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

Section 1. Section **77-36-2.2** is amended to read:

**77-36-2.2. Powers and duties of law enforcement officers to arrest -- Reports of domestic violence cases -- Reports of parties' marital status.**



28 (1) The primary duty of law enforcement officers responding to a domestic violence  
29 call is to protect the victim and enforce the law.

30 (2) (a) In addition to the arrest powers described in Section 77-7-2, when a peace  
31 officer responds to a domestic violence call and has probable cause to believe that an act of  
32 domestic violence has been committed, the peace officer shall arrest without a warrant or shall  
33 issue a citation to any person that the peace officer has probable cause to believe has committed  
34 an act of domestic violence.

35 (b) (i) If the peace officer has probable cause to believe that there will be continued  
36 violence against the alleged victim, or if there is evidence that the perpetrator has either  
37 recently caused serious bodily injury or used a dangerous weapon in the domestic violence  
38 offense, the officer shall arrest and take the alleged perpetrator into custody, and may not  
39 utilize the option of issuing a citation under this section.

40 (ii) For purposes of Subsection (2)(b)(i), "serious bodily injury" and "dangerous  
41 weapon" mean the same as those terms are defined in Section 76-1-601.

42 (c) If a peace officer does not immediately exercise arrest powers or initiate criminal  
43 proceedings by citation or otherwise, the officer shall notify the victim of the right to initiate a  
44 criminal proceeding and of the importance of preserving evidence, in accordance with the  
45 requirements of Section 77-36-2.1.

46 (3) If a law enforcement officer receives complaints of domestic violence from two or  
47 more opposing persons, the officer shall evaluate each complaint separately to determine who  
48 the predominant aggressor was. If the officer determines that one person was the predominant  
49 physical aggressor, the officer need not arrest the other person alleged to have committed  
50 domestic violence. In determining who the predominant aggressor was, the officer shall  
51 consider:

- 52 (a) any prior complaints of domestic violence;
- 53 (b) the relative severity of injuries inflicted on each person;
- 54 (c) the likelihood of future injury to each of the parties; and
- 55 (d) whether one of the parties acted in self defense.

56 (4) A law enforcement officer may not threaten, suggest, or otherwise indicate the  
57 possible arrest of all parties in order to discourage any party's request for intervention by law  
58 enforcement.

59 (5) (a) A law enforcement officer who does not make an arrest after investigating a  
60 complaint of domestic violence, or who arrests two or more parties, shall submit a detailed,  
61 written report specifying the grounds for not arresting any party or for arresting both parties.

62 (b) A law enforcement officer who does not make an arrest shall notify the victim of  
63 the right to initiate a criminal proceeding and of the importance of preserving evidence.

64 (6) (a) A law enforcement officer responding to a complaint of domestic violence shall  
65 prepare an incident report that includes the officer's disposition of the case.

66 (b) From January 1, 2009 until December 31, 2013, any law enforcement officer  
67 employed by a city of the first or second class responding to a complaint of domestic violence  
68 shall also report, either as a part of an incident report or on a separate form, the following  
69 information:

70 (i) marital status of each of the parties involved;

71 (ii) social, familial, or legal relationship of the suspect to the victim; and

72 (iii) whether or not an arrest was made.

73 (c) The information obtained in Subsection (6)(b):

74 (i) shall be reported monthly to the department;

75 (ii) shall be reported as numerical data that contains no personal identifiers; and

76 (iii) is a public record as defined in Section 63G-2-103.

77 (d) The incident report shall be made available to the victim, upon request, at no cost.

78 (e) The law enforcement agency shall forward a copy of the incident report to the  
79 appropriate prosecuting attorney within five days after the complaint of domestic violence  
80 occurred.

81 (7) The department shall compile the information described in Subsections (6)(b) and  
82 (c) into a report and present that report to the Law Enforcement and Criminal Justice Interim  
83 Committee during the 2013 Interim, no later than May 31, 2013.

84 [~~7~~] (8) Each law enforcement agency shall, as soon as practicable, make a written  
85 record and maintain records of all incidents of domestic violence reported to it, and shall be  
86 identified by a law enforcement agency code for domestic violence.

87 Section 2. **Effective date.**

88 If approved by two-thirds of all the members elected to each house, this bill takes effect  
89 upon approval by the governor, or the day following the constitutional time limit of Utah

90 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
91 the date of veto override.

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**Legislative Review Note**  
as of 2-18-13 1:57 PM

**Office of Legislative Research and General Counsel**