

CODE OF CRIMINAL PROCEDURE AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim Coleman

Senate Sponsor: Deidre M. Henderson

LONG TITLE

General Description:

This bill modifies the Utah Code of Criminal Procedure regarding cohabitant abuse.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of an offense against property in the Cohabitant Abuse

Procedures 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 2015, Chapter 426

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" has the same meaning as in Section **78B-7-102**.
- (2) "Department" means the Department of Public Safety.



28 (3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter
29 3, Divorce.

30 (4) "Domestic violence" or "domestic violence offense" means any criminal offense
31 involving violence or physical harm or threat of violence or physical harm, or any attempt,
32 conspiracy, or solicitation to commit a criminal offense involving violence or physical harm,
33 when committed by one cohabitant against another. "Domestic violence" or "domestic
34 violence offense" also means commission or attempt to commit, any of the following offenses
35 by one cohabitant against another:

36 (a) aggravated assault, as described in Section 76-5-103;

37 (b) assault, as described in Section 76-5-102;

38 (c) criminal homicide, as described in Section 76-5-201;

39 (d) harassment, as described in Section 76-5-106;

40 (e) electronic communication harassment, as described in Section 76-9-201;

41 (f) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections
42 76-5-301, 76-5-301.1, and 76-5-302;

43 (g) mayhem, as described in Section 76-5-105;

44 (h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and
45 Section 76-5b-201, Sexual Exploitation of a Minor;

46 (i) stalking, as described in Section 76-5-106.5;

47 (j) unlawful detention or unlawful detention of a minor, as described in Section
48 76-5-304;

49 (k) violation of a protective order or ex parte protective order, as described in Section
50 76-5-108;

51 (l) any offense against property described in Title 76, Chapter 6, Part 1, Property
52 Destruction, ~~to~~ **committed with the intent to harass or intimidate a cohabitant, or place**
52a **a cohabitant in fear of bodily injury;**

52b **(m) any offense against property described in Title 76, Chapter 6, ~~to~~ Part 2, Burglary**
52c **and Criminal Trespass, or Part 3, Robbery ~~to~~ [~~committed with the~~**
53 **intent to harass or intimidate a cohabitant, or place a cohabitant in fear of serious bodily**
53a **injury] ~~to~~ ;**

54 ~~to~~ **(n) ~~to~~** possession of a deadly weapon with intent to assault, as described in
54a Section
55 76-10-507;

56 ~~Ĥ~~→ [~~m~~] (o) ←~~Ĥ~~ discharge of a firearm from a vehicle, near a highway, or in the direction
56a of any
57 person, building, or vehicle, as described in Section [76-10-508](#);

58 ~~Ĥ~~→ [~~o~~] (p) ←~~Ĥ~~ disorderly conduct, as defined in Section [76-9-102](#), if a conviction of
58a disorderly

59 conduct is the result of a plea agreement in which the defendant was originally charged with a
60 domestic violence offense otherwise described in this Subsection (4). Conviction of disorderly
61 conduct as a domestic violence offense, in the manner described in this Subsection (4) ~~H→ [(p)]~~
61a ~~(p)~~ ←H , does
62 not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Section 921, and is
63 exempt from the provisions of the federal Firearms Act, 18 U.S.C. Section 921 et seq.; or
64 H→ [(p)] ~~(q)~~ ←H child abuse as described in Section 76-5-109.1.

65 (5) "Jail release agreement" means a written agreement:
66 (a) specifying and limiting the contact a person arrested for a domestic violence offense
67 may have with an alleged victim or other specified individuals; and
68 (b) specifying other conditions of release from jail as required in Subsection
69 77-36-2.5(2).

70 (6) "Jail release court order" means a written court order:
71 (a) specifying and limiting the contact a person arrested for a domestic violence offense
72 may have with an alleged victim or other specified individuals; and
73 (b) specifying other conditions of release from jail as required in Subsection
74 77-36-2.5(2).

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

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

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

81 (10) "Pretrial protective order" means a written order:
82 (a) specifying and limiting the contact a person who has been charged with a domestic
83 violence offense may have with an alleged victim or other specified individuals; and
84 (b) specifying other conditions of release pursuant to Subsection 77-36-2.5(3)(c),
85 Subsection 77-36-2.6(3), or Section 77-36-2.7, pending trial in the criminal case.

86 (11) "Sentencing protective order" means a written order of the court as part of
87 sentencing in a domestic violence case that limits the contact a person who has been convicted
88 of a domestic violence offense may have with a victim or other specified individuals pursuant
89 to Sections 77-36-5 and 77-36-5.1.

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

92 (13) "Victim" means a cohabitant who has been subjected to domestic violence.

Legislative Review Note
Office of Legislative Research and General Counsel