

Cohabitant Definition Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carol S. Moss

Senate Sponsor:

LONG TITLE**General Description:**

This bill addresses the definition of cohabitant.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

76-2-409 . Battered person mitigation.

(1) As used in this section:

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

~~[(b) "Cohabitant" means:]~~

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

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

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

~~minor.]~~

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

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

(A) an individual who is a minor child if the individual's parent ~~is~~ , stepparent,

or an individual living with the minor's parent as if a stepparent, ~~is~~

committed the

criminal offense; or

(B) if the individual who committed the offense is a minor child, an individual

who is the parent or stepparent of the minor child or an individual living with

the minor child's parent as if a stepparent to the minor child.

(c) "Minor child" means the same as that term is defined in Section 81-1-101.

(d) "Parent" means the same as that term is defined in Section 81-1-101.

(2)(a) An individual is entitled to battered person mitigation if:

(i) the individual committed a criminal offense that was not legally justified;

(ii) the individual committed the criminal offense against a cohabitant who

demonstrated a pattern of abuse against the individual or another cohabitant of the individual; and

(iii) the individual reasonably believed that the criminal offense was necessary to end the pattern of abuse.

(b) A reasonable belief under Subsection (2)(a) is determined from the viewpoint of a reasonable person in the individual's circumstances, as the individual's circumstances are perceived by the individual.

(3) An individual claiming mitigation under Subsection (2)(a) has the burden of proving, by clear and convincing evidence, each element that would entitle the individual to mitigation under Subsection (2)(a).

(4) Mitigation under Subsection (2)(a) results in a one-step reduction of the level of offense of which the individual is convicted.

(5)(a) If the trier of fact is a jury, an individual is not entitled to mitigation under Subsection (2)(a) unless the jury:

(i) finds the individual proved, in accordance with Subsection (3), that the individual is entitled to mitigation by unanimous vote; and

(ii) returns a special verdict for the reduced charge at the same time the jury returns the general verdict.

(b) A nonunanimous vote by the jury on the question of mitigation under Subsection (2)(a) does not result in a hung jury.

(6) An individual intending to claim mitigation under Subsection (2)(a) at the individual's

trial shall give notice of the individual's intent to claim mitigation under Subsection (2)(a) to the prosecuting agency at least 30 days before the individual's trial.

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

78B-7-102 . Definitions.

As used in this chapter:

- (1) "Abuse" means, except as provided in Section 78B-7-201, intentionally or knowingly causing or attempting to cause another individual physical harm or intentionally or knowingly placing another individual in reasonable fear of imminent physical harm.
- (2) "Affinity" means the same as that term is defined in Section 76-1-101.5.
- (3) "Civil protective order" means an order issued, subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice, under:
 - (a) Part 2, Child Protective Orders;
 - (b) Part 4, Dating Violence Protective Orders;
 - (c) Part 5, Sexual Violence Protective Orders;
 - (d) Part 6, Cohabitant Abuse Protective Orders; or
 - (e) Part 11, Workplace Violence Protective Orders.
- (4) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil Stalking Injunctions.
- (5)(a) "Cohabitant" means an ~~[emancipated individual under Section 15-2-1 or an individual who is 16 years old or older who:]~~ individual who:
 - (i) is emancipated as described in Section 15-2-1 or is 16 years old or older; and
 - ~~[(i)]~~ [(ii)] (A) is or was a spouse of the other party;
 - ~~[(ii)]~~ [(B)] is or was living as if a spouse of the other party;
 - ~~[(iii)]~~ [(C)] is related by blood or marriage to the other party as the individual's parent, grandparent, sibling, or any other individual related to the individual by consanguinity or affinity to the second degree;
 - ~~[(iv)]~~ [(D)] has or had one or more children in common with the other party;
 - ~~[(v)]~~ [(E)] is the biological parent of the other party's unborn child;
 - ~~[(vi)]~~ [(F)] resides or has resided in the same residence as the other party; or
 - ~~[(vii)]~~ [(G)] is or was in a consensual sexual relationship with the other party.
- ~~[(b)] "Cohabitant" does not include:~~
 - ~~[(i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or]~~
 - ~~[(ii) the relationship between natural, adoptive, step, or foster siblings who are under 18 years old.]~~

96a ~~Ĥ~~→ (b) "Cohabitant" includes an individual who is 18 years old or older and is the
 96b sibling, stepsibling, or foster sibling of the other party, if the other party is younger
 96c than 18 years old.

97 [~~(b)~~] (c) ←Ĥ "Cohabitant" does not include, if the other party is younger than 18 years
 97a old:

98 (i) an individual who is the parent Ĥ→ [~~or step-parent~~] , stepparent, or
 98a foster parent ←Ĥ of the other party; or

99 (ii) an individual who is younger than 18 years old and is the sibling. Ĥ→ [
 99a step-sibling] stepsibling ←Ĥ , 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.