

## **Cohabitant Definition Amendments**

## 2026 GENERAL SESSION

STATE OF UTAH

## **Chief Sponsor: Carol S. Moss**

**Senate Sponsor:**

## LONG TITLE

### **General Description:**

This bill addresses the definition of a cohabitant.

## Highlighted Provisions:

This bill:

- clarifies the definition of cohabitant for the battered person mitigation statute;
- clarifies and amends the definition of cohabitant for domestic violence and protective order statutes;
- 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 2025, Chapters 212, 332

*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 the term is defined in Section 78B-7-102.

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

(A) a minor when the minor's parent or stepparent, or an individual living with the minor's parent as if a stepparent to the minor, committed the criminal offense;  
or

(B) a parent or stepparent of a minor, or an individual living with a parent of a minor as if a stepparent to the minor, when the minor committed the criminal offense.

(c) "Minor" means an individual who is younger than 18 years old.

(d) "Parent" means an individual with an established parent-child relationship as described in Section 81-5-201.

(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; 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.

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

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

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

71 **78B-7-102 . Definitions for chapter.**

72 As used in this chapter:

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

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

77 (3) "Canadian domestic violence protection order" means the same as that term is defined in  
78 Section 78B-7-1201.

79 (4) "Child" means an individual who is younger than 18 years old.

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

82 (a) Part 2, Child Protective Orders;

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

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

85 (d) Part 6, Cohabitation Abuse Protective Orders; or

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

87 (6) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil  
88 Stalking Injunctions.

89 (7)(a) "Cohabitation" means[ an emancipated individual under Section 15-2-1 or an  
90 individual who is 16 years old or older who] :

91 (i) an individual who is emancipated under Section 15-2-1, or an individual who is 16  
92 years old or older, when the individual:

93 [(i)] (A) is or was a spouse of the other party;

94 [(ii)] (B) is or was living as if a spouse of the other party;

95 [(iii)] (C) is related by blood or marriage to the other party as the individual's parent[  
96 , grandparent, sibling, or any other individual related to the individual] or  
97 grandparent;

98 (D) is related by consanguinity or affinity to the second degree to the other party;

- [{iv}] (E) has or had one or more children in common with the other party;
- [{v}] (F) is the biological parent of the other party's unborn minor child;
- [{vi}] (G) resides or has resided in the same residence as the other party; or
- [{vii}] (H) is or was in a consensual sexual relationship with the other party[.] ; or  
an individual who is 18 years old or older and is the sibling, stepsibling, or foster  
sibling of the other party when the other party is a child.

(b) "Cohabitant" does not include:

- (i) an individual who is a parent, stepparent, or foster parent of the other party when the other party is a child; or
- (ii) a child when the other party is:
  - (A) the child's parent, stepparent, or foster parent; or
  - (B) younger than 18 years old and is the child's sibling, stepsibling, or foster sibling.

[b] "Cohabitant" does not include:]

[i] the relationship of natural parent, adoptive parent, or step-parent to a minor child;  
or]

[ii] the relationship between natural, adoptive, step, or foster siblings who are under 18 years old.]

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

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

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

(11) "Court clerk" means a district court clerk.

(12)(a) "Dating partner" means an individual who:

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

- (B) is 18 years old or older; and
- (ii) is, or has been, in a dating relationship with the other party.

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

(13)(a) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.

(b) "Dating relationship" does not include casual fraternization in a business

educational, or social context.

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

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

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

(B) the length of the parties' relationship;

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

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

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

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

(ii) it is not necessary that all, or a particular number, of the factors described in Subsection (13)(c)(i) are found to support the existence of a dating relationship.

(14) "Dating violence" means:

(a) a criminal offense involving violence or physical harm, or threat of violence or physical harm, when committed by an individual against a dating partner; or

(b) an attempt, a conspiracy, or a solicitation by an individual to commit a criminal offense in which he or she is believed to be acting on behalf of the individual.

(15) "Domestic violence" means the same as that term is defined in Section 77-26-1.

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

(c) 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

(c) Part 11. Workplace Violence Protective Orders

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

(18) "Foreign protection order" means:

167 (a) the same as that term is defined in Section 78B-7-302; or  
168 (b) a Canadian domestic violence protection order.

169 (19) "Household animal" means an animal that is tamed and kept as a pet.  
170 (20) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.  
171 (21) "Law enforcement unit" or "law enforcement agency" means any public agency having  
172 general police power and charged with making arrests in connection with enforcement  
173 of the criminal statutes and ordinances of this state or any political subdivision.

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

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

176 [(23)] (24) "Peace officer" means [those individuals specified] an individual described in  
177 Title 53, Chapter 13, Peace Officer Classifications.

178 [(24)] (25) "Qualifying domestic violence offense" means the same as that term is defined in  
179 Section 77-36-1.1.

180 [(25)] (26) "Respondent" means the individual against whom enforcement of a protective  
181 order is sought.

182 [(26)] (27) "Stalking" means the same as that term is defined in Section 76-5-106.5.

183       **Section 3. Effective Date.**

184       This bill takes effect on May 6, 2026.