

Effective 5/5/2021

Superseded 5/3/2023

77-36-1.1 Enhancement of offense and penalty for subsequent domestic violence offenses.

(1) As used in this section:

(a)

(i) "Convicted" means a conviction by plea or verdict of a crime or offense.

(ii) "Convicted" includes:

(A) a plea of guilty or guilty and mentally ill;

(B) a plea of no contest; and

(C) the acceptance by the court of a plea in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge is subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(iii) "Convicted" does not include an adjudication in juvenile court.

(b) "Criminal mischief offense" means commission or attempt to commit an offense under Section 76-6-106 by one cohabitant against another.

(c) "Offense against the person" means commission or attempt to commit an offense under Title 76, Chapter 5, Part 1, Assault and Related Offenses, Part 2, Criminal Homicide, Part 3, Kidnapping, Trafficking, and Smuggling, Part 4, Sexual Offenses, or Part 7, Genital Mutilation, by one cohabitant against another.

(d) "Qualifying domestic violence offense" means:

(i) a domestic violence offense in Utah; or

(ii) an offense in any other state, or in any district, possession, or territory of the United States, that would be a domestic violence offense under Utah law.

(2) An individual who is convicted of a domestic violence offense is guilty of a class B misdemeanor if:

(a) the domestic violence offense described in this Subsection (2) is designated by law as a class C misdemeanor; and

(b) the individual commits or is convicted of the domestic violence offense described in this Subsection (2):

(i) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; or

(ii) within five years after the day on which the individual is convicted of a criminal mischief offense.

(3) An individual who is convicted of a domestic violence offense is guilty of a class A misdemeanor if:

(a) the domestic violence offense described in this Subsection (3) is designated by law as a class B misdemeanor; and

(b) the individual commits or is convicted of the domestic violence offense described in this Subsection (3):

(i) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; or

(ii) within five years after the day on which the individual is convicted of a criminal mischief offense.

(4) An individual who is convicted of a domestic violence offense is guilty of a third degree felony if:

(a) the domestic violence offense described in this Subsection (4) is designated by law as a class B misdemeanor offense against the person and the individual:

(i)

- (A) commits or is convicted of the domestic violence offense described in this Subsection (4) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; and
 - (B) is convicted of another qualifying domestic violence offense that is not a criminal mischief offense after the day on which the individual is convicted of the qualifying domestic violence offense described in Subsection (4)(a)(i)(A) and before the day on which the individual is convicted of the domestic violence offense described in this Subsection (4);
- (ii)
- (A) commits or is convicted of the domestic violence offense described in this Subsection (4) within five years after the day on which the individual is convicted of a criminal mischief offense; and
 - (B) is convicted of another criminal mischief offense after the day on which the individual is convicted of the criminal mischief offense described in Subsection (4)(a)(ii)(A) and before the day on which the individual is convicted of the domestic violence offense described in this Subsection (4); or
- (iii) commits or is convicted of the domestic violence offense described in this Subsection (4) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense and within five years after the day on which the individual is convicted of a criminal mischief offense; and
- (b)
- (i) the domestic violence offense described in this Subsection (4) is designated by law as a class A misdemeanor; and
 - (ii) the individual commits or is convicted of the domestic violence offense described in this Subsection (4):
 - (A) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; or
 - (B) within five years after the day on which the individual is convicted of a criminal mischief offense.