

**DOMESTIC VIOLENCE ENHANCEMENT**

2005 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carol Spackman Moss**

Senate Sponsor: Karen Hale

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**LONG TITLE**

**General Description:**

This bill amends the section of the Cohabitant Abuse Procedures Act that provides for an enhanced offense and penalty for a subsequent domestic violence offense.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides an enhancement for a domestic violence offense that:
  - is committed within five years after a conviction for a qualifying domestic violence offense; or
  - a person is convicted of within five years after a conviction for a qualifying domestic violence offense;
- ▶ clarifies that a plea of guilty or no contest that is held in abeyance is the equivalent of a conviction for purposes of enhancing a subsequent domestic violence offense and penalty, regardless of whether the offense pled to is reduced or dismissed after the plea is held in abeyance; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

77-36-1.1, as last amended by Chapter 296, Laws of Utah 1999

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

Section 1. Section 77-36-1.1 is amended to read:

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

~~[(1) When an offender is convicted of any]~~

(1) For purposes of this section, "qualifying domestic violence offense" means:

(a) a domestic violence offense in Utah~~[-or is convicted]~~; or

(b) an offense in any other state, or in any district, possession, or territory of the United States, ~~[of an offense]~~ that would be a domestic violence offense under Utah law~~[-and is within a five-year period after the conviction subsequently charged with a domestic violence offense that is a misdemeanor, the offense charged and the punishment for that subsequent offense may be enhanced by one degree above the offense and punishment otherwise provided in the statutes described in Section 77-36-1].~~

(2) A person who is convicted of a domestic violence offense is:

(a) guilty of a class B misdemeanor if:

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

(ii) (A) the domestic violence offense described in this Subsection (2) is committed within five years after the person is convicted of a qualifying domestic violence offense; or

(B) the person is convicted of the domestic violence offense described in this Subsection

(2) within five years after the person is convicted of a qualifying domestic violence offense;

(b) guilty of a class A misdemeanor if:

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

(ii) (A) the domestic violence offense described in this Subsection (2) is committed within five years after the person is convicted of a qualifying domestic violence offense; or

(B) the person is convicted of the domestic violence offense described in this Subsection (2) within five years after the person is convicted of a qualifying domestic violence offense; or

(c) guilty of a felony of the third degree if:

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

(ii) (A) the domestic violence offense described in this Subsection (2) is committed within five years after the person is convicted of a qualifying domestic violence offense; or

(B) the person is convicted of the domestic violence offense described in this Subsection (2) within five years after the person is convicted of a qualifying domestic violence offense.

[~~(2)~~] (3) For purposes of this section, a plea [~~in abeyance is considered a conviction~~] of guilty or no contest to any qualifying domestic violence offense in Utah which plea is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.