

1 **DOMESTIC VIOLENCE ENHANCEMENT**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Carol Spackman Moss**

5

6 **LONG TITLE**

7 **General Description:**

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

10 **Highlighted Provisions:**

11 This bill:

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

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **77-36-1.1**, as last amended by Chapter 296, Laws of Utah 1999



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

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

33 **77-36-1.1. Enhancement of offense and penalty for subsequent domestic violence**
34 **offenses.**

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

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

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

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

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

45 (a) guilty of a class B misdemeanor if:

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

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

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

53 (b) guilty of a class A misdemeanor if:

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

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

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

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

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

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

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

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

69 [~~(2)~~] (3) For purposes of this section, a plea [~~in abeyance is considered a conviction]~~ of
70 guilty or no contest to any qualifying domestic violence offense in Utah which plea is held in
71 abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even
72 if the charge has been subsequently reduced or dismissed in accordance with the plea in
73 abeyance agreement.

Legislative Review Note
as of 12-28-04 11:19 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0059

Domestic Violence Enhancement

18-Jan-05

1:31 PM

State Impact

No state or local government fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst