

1 **LAW ENFORCEMENT TRACKING OF**
2 **DOMESTIC VIOLENCE STATISTICS**

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Jon J. Greiner**

6 House Sponsor: Carl Wimmer

7
8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Code of Criminal Procedure by requiring the reporting of
11 domestic violence statistics to the Department of Public Safety.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ requires law enforcement officers employed by a city of the first or second class,
15 when responding to a complaint of domestic violence, to gather and report the
16 following information to the Department of Public Safety for a period beginning
17 January 1, 2009 and ending December 31, 2013:

- 18 • marital status of the parties involved;
- 19 • relationship of the suspect to the victim; and
- 20 • whether or not an arrest was made; and

21 ▶ provides definitions.

22 **Monies Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:



28 77-36-1, as last amended by Laws of Utah 2006, Chapter 46

29 77-36-2.2, as last amended by Laws of Utah 1998, Chapter 105



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

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

33 **77-36-1. Definitions.**

34 As used in this chapter:

35 (1) "Cohabitant" has the same meaning as in Section 30-6-1.

36 (2) "Department" means the Department of Public Safety.

37 (3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter
38 3, Divorce.

39 ~~[(2)]~~ (4) "Domestic violence" means any criminal offense involving violence or
40 physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation
41 to commit a criminal offense involving violence or physical harm, when committed by one
42 cohabitant against another. "Domestic violence" also means commission or attempt to commit,
43 any of the following offenses by one cohabitant against another:

44 (a) aggravated assault, as described in Section 76-5-103;

45 (b) assault, as described in Section 76-5-102;

46 (c) criminal homicide, as described in Section 76-5-201;

47 (d) harassment, as described in Section 76-5-106;

48 (e) electronic communication harassment, as described in Section 76-9-201;

49 (f) kidnaping, child kidnaping, or aggravated kidnaping, as described in Sections
50 76-5-301, 76-5-301.1, and 76-5-302;

51 (g) mayhem, as described in Section 76-5-105;

52 (h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and
53 Title 76, Chapter 5a, Sexual Exploitation of Children;

54 (i) stalking, as described in Section 76-5-106.5;

55 (j) unlawful detention, as described in Section 76-5-304;

56 (k) violation of a protective order or ex parte protective order, as described in Section
57 76-5-108;

58 (l) any offense against property described in Title 76, Chapter 6, Part 1, Property

59 Destruction, 2, Burglary and Criminal Trespass, or 3, Robbery;

60 (m) possession of a deadly weapon with intent to assault, as described in Section
61 76-10-507;

62 (n) discharge of a firearm from a vehicle, near a highway, or in the direction of any
63 person, building, or vehicle, as described in Section 76-10-508;

64 (o) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly
65 conduct is the result of a plea agreement in which the defendant was originally charged with
66 any of the domestic violence offenses otherwise described in this Subsection (2). Conviction
67 of disorderly conduct as a domestic violence offense, in the manner described in this
68 Subsection (2)(o), does not constitute a misdemeanor crime of domestic violence under 18
69 U.S.C. Section 921, and is exempt from the provisions of the federal Firearms Act, 18 U.S.C.
70 Section 921 et seq.; or

71 (p) child abuse as described in Section 76-5-109.1.

72 (5) "Marital status" means married and living together, divorced, separated, or not
73 married.

74 (6) "Married and living together" means a man and a woman whose marriage was
75 solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

76 (7) "Not married" means any living arrangement other than married and living together,
77 divorced, or separated.

78 (8) "Separated" means a man and a woman who have had their marriage solemnized
79 under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

80 [~~3~~] (9) "Victim" means a cohabitant who has been subjected to domestic violence.

81 Section 2. Section **77-36-2.2** is amended to read:

82 **77-36-2.2. Powers and duties of law enforcement officers to arrest -- Reports of**
83 **domestic violence cases -- Reports of parties' marital status.**

84 (1) The primary duty of law enforcement officers responding to a domestic violence
85 call is to protect the victim and enforce the law.

86 (2) (a) In addition to the arrest powers described in Section 77-7-2, when a peace
87 officer responds to a domestic violence call and has probable cause to believe that an act of
88 domestic violence has been committed, the peace officer shall arrest without a warrant or shall
89 issue a citation to any person that [~~he~~] the peace officer has probable cause to believe has

90 committed an act of domestic violence.

91 (b) (i) If the peace officer has probable cause to believe that there will be continued
92 violence against the alleged victim, or if there is evidence that the perpetrator has either
93 recently caused serious bodily injury or used a dangerous weapon in the domestic violence
94 offense, the officer shall arrest and take the alleged perpetrator into custody, and may not
95 utilize the option of issuing a citation under this section.

96 (ii) For purposes of ~~[this section]~~ Subsection (2)(b)(i), "serious bodily injury" and
97 "dangerous weapon" mean the same as those terms are defined in Section 76-1-601.

98 (c) If a peace officer does not immediately exercise arrest powers or initiate criminal
99 proceedings by citation or otherwise, ~~[he]~~ the officer shall notify the victim of ~~[his or her]~~ the
100 right to initiate a criminal proceeding and of the importance of preserving evidence, in
101 accordance with the requirements of Section 77-36-2.1.

102 (3) If a law enforcement officer receives complaints of domestic violence from two or
103 more opposing persons, the officer shall evaluate each complaint separately to determine who
104 the predominant aggressor was. If the officer determines that one person was the predominant
105 physical aggressor, the officer need not arrest the other person alleged to have committed
106 domestic violence. In determining who the predominant aggressor was, the officer shall
107 consider:

- 108 (a) any prior complaints of domestic violence;
- 109 (b) the relative severity of injuries inflicted on each person;
- 110 (c) the likelihood of future injury to each of the parties; and
- 111 (d) whether one of the parties acted in self defense.

112 (4) A law enforcement officer may not threaten, suggest, or otherwise indicate the
113 possible arrest of all parties in order to discourage any party's request for intervention by law
114 enforcement.

115 (5) (a) A law enforcement officer who does not make an arrest after investigating a
116 complaint of domestic violence, or who arrests two or more parties, shall submit a detailed,
117 written report specifying the grounds for not arresting any party or for arresting both parties.

118 (b) A law enforcement officer who does not make an arrest shall notify the victim of
119 ~~[his or her]~~ the right to initiate a criminal proceeding and of the importance of preserving
120 evidence.

121 (6) (a) A law enforcement officer responding to a complaint of domestic violence shall
122 prepare an incident report that includes the officer's disposition of the case.

123 (b) From January 1, 2009 until December 31, 2013, any law enforcement officer
124 employed by a city of the first or second class responding to a complaint of domestic violence
125 shall also report, either as a part of an incident report or on a separate form, the following
126 information:

127 (i) marital status of each of the parties involved;

128 (ii) social, familial, or legal relationship of the suspect to the victim; and

129 (iii) whether or not an arrest was made.

130 (c) The information obtained in Subsection (6)(b):

131 (i) shall be reported monthly to the department;

132 (ii) shall be reported as numerical data that contains no personal identifiers; and

133 (iii) is a public record as defined in Section 63-2-103.

134 ~~[(b) That]~~ (d) The incident report shall be made available to the victim, upon request,
135 at no cost.

136 ~~[(e)]~~ (e) The law enforcement agency shall forward a copy of the incident report to the
137 appropriate prosecuting attorney within five days after the complaint of domestic violence
138 occurred.

139 (7) Each law enforcement agency shall, as soon as practicable, make a written record
140 and maintain records of all incidents of domestic violence reported to it, and shall be identified
141 by a law enforcement agency code for domestic violence.

Legislative Review Note
as of 2-7-08 11:07 AM

Office of Legislative Research and General Counsel

S.B. 242 - Law Enforcement Tracking of Domestic Violence Statistics

**Revised
Fiscal Note**

2008 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill will impact local law enforcement agencies, however it is unquantifiable at this time.
