



- 30 (1) "Cohabitant" has the same meaning as in Section 78B-7-102.
- 31 (2) "Department" means the Department of Public Safety.
- 32 (3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter  
33 3, Divorce.
- 34 (4) "Domestic violence" means any criminal offense involving violence or physical  
35 harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to  
36 commit a criminal offense involving violence or physical harm, when committed by one  
37 cohabitant against another. "Domestic violence" also means commission or attempt to commit,  
38 any of the following offenses by one cohabitant against another:
- 39 (a) aggravated assault, as described in Section 76-5-103;
- 40 (b) assault, as described in Section 76-5-102;
- 41 (c) criminal homicide, as described in Section 76-5-201;
- 42 (d) harassment, as described in Section 76-5-106;
- 43 (e) electronic communication harassment, as described in Section 76-9-201;
- 44 (f) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections  
45 76-5-301, 76-5-301.1, and 76-5-302;
- 46 (g) mayhem, as described in Section 76-5-105;
- 47 (h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and  
48 Title 76, Chapter 5a, Sexual Exploitation of Children;
- 49 (i) stalking, as described in Section 76-5-106.5;
- 50 (j) unlawful detention, as described in Section 76-5-304;
- 51 (k) violation of a protective order or ex parte protective order, as described in Section  
52 76-5-108;
- 53 (l) any offense against property described in Title 76, Chapter 6, Part 1, Property  
54 Destruction, Part 2, Burglary and Criminal Trespass, or Part 3, Robbery;
- 55 (m) possession of a deadly weapon with intent to assault, as described in Section  
56 76-10-507;
- 57 (n) discharge of a firearm from a vehicle, near a highway, or in the direction of any

58 person, building, or vehicle, as described in Section 76-10-508;

59 (o) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly  
60 conduct is the result of a plea agreement in which the defendant was originally charged with  
61 any of the domestic violence offenses otherwise described in this Subsection (4). Conviction  
62 of disorderly conduct as a domestic violence offense, in the manner described in this  
63 Subsection (4)(o), does not constitute a misdemeanor crime of domestic violence under 18  
64 U.S.C. Section 921, and is exempt from the provisions of the federal Firearms Act, 18 U.S.C.  
65 Section 921 et seq.; or

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

67 (5) "Jail release agreement" means a written agreement:

68 (a) specifying and limiting the contact a person arrested for a domestic violence offense  
69 may have with an alleged victim or other specified individuals; and

70 (b) specifying other conditions of release from jail as required in Subsection  
71 77-36-2.5~~(1)~~(2).

72 (6) "Jail release court order" means a written court order:

73 (a) specifying and limiting the contact a person arrested for a domestic violence offense  
74 may have with an alleged victim or other specified individuals; and

75 (b) specifying other conditions of release from jail as required in Subsection  
76 77-36-2.5~~(1)~~(2).

77 (7) "Marital status" means married and living together, divorced, separated, or not  
78 married.

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

81 (9) "Not married" means any living arrangement other than married and living together,  
82 divorced, or separated.

83 (10) "Pretrial protective order" means a written order:

84 (a) specifying and limiting the contact a person who has been charged with a domestic  
85 violence offense may have with an alleged victim or other specified individuals; and

86 (b) specifying other conditions of release pursuant to Subsection 77-36-2.5[~~(2)~~](3)(c),  
87 Subsection 77-36-2.6(3), or Section 77-36-2.7, pending trial in the criminal case.

88 (11) "Sentencing protective order" means a written order of the court as part of  
89 sentencing in a domestic violence case that limits the contact a person who has been convicted  
90 of a domestic violence offense may have with a victim or other specified individuals pursuant  
91 to Sections 77-36-5 and 77-36-5.1.

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

94 (13) "Victim" means a cohabitant who has been subjected to domestic violence.

95 Section 2. Section **77-36-2.1** is amended to read:

96 **77-36-2.1. Duties of law enforcement officers -- Notice to victims.**

97 (1) A law enforcement officer who responds to an allegation of domestic violence shall  
98 use all reasonable means to protect the victim and prevent further violence, including:

99 (a) taking the action that, in the officer's discretion, is reasonably necessary to provide  
100 for the safety of the victim and any family or household member;

101 (b) confiscating the weapon or weapons involved in the alleged domestic violence;

102 (c) making arrangements for the victim and any child to obtain emergency housing or  
103 shelter;

104 (d) providing protection while the victim removes essential personal effects;

105 (e) arrange, facilitate, or provide for the victim and any child to obtain medical  
106 treatment; and

107 (f) arrange, facilitate, or provide the victim with immediate and adequate notice of the  
108 rights of victims and of the remedies and services available to victims of domestic violence, in  
109 accordance with Subsection (2).

110 (2) (a) A law enforcement officer shall give written notice to the victim in simple  
111 language, describing the rights and remedies available under this chapter, Title 78B, Chapter 7,  
112 Part 1, Cohabitant Abuse Act, and Title 78B, Chapter 7, Part 2, Child Protective Orders.

113 (b) The written notice shall also include:

114 (i) a statement that the forms needed in order to obtain an order for protection are  
115 available from the court clerk's office in the judicial district where the victim resides or is  
116 temporarily domiciled;

117 (ii) a list of shelters, services, and resources available in the appropriate community,  
118 together with telephone numbers, to assist the victim in accessing any needed assistance; and

119 (iii) the information required to be provided to both parties in accordance with  
120 Subsection 77-36-2.5~~(7)~~(8).

121 Section 3. Section 77-36-2.5 is amended to read:

122 **77-36-2.5. Conditions for release after arrest for domestic violence -- Jail release**  
123 **agreements -- Jail release court orders.**

124 (1) (a) Upon arrest for domestic violence, and before the person is released on bail,  
125 recognizance, or otherwise, the person may not personally contact the alleged victim of  
126 domestic violence.

127 (b) A person who violates Subsection (1)(a) is guilty of a class B misdemeanor.

128 ~~(1)~~ (2) Upon arrest for domestic violence, a person may not be released on bail,  
129 recognizance, or otherwise prior to the close of the next court day following the arrest, unless  
130 as a condition of that release the person is ordered by the court or agrees in writing that until  
131 further order of the court, the person will:

132 (a) have no personal contact with the alleged victim;

133 (b) not threaten or harass the alleged victim; and

134 (c) not knowingly enter onto the premises of the alleged victim's residence or any  
135 premises temporarily occupied by the alleged victim.

136 ~~(2)~~ (3) (a) The jail release agreement or jail release court order expires at midnight on  
137 the day on which the person arrested appears in person or by video for arraignment or an initial  
138 appearance.

139 (b) (i) If criminal charges have not been filed against the arrested person, the court  
140 may, for good cause and in writing, extend the jail release agreement or jail release court order  
141 beyond the time period under Subsection ~~(2)~~ (3)(a) as provided in Subsection ~~(2)~~ (3)(b)(ii).

142 (ii) (A) The court may extend a jail release agreement or jail release court order under  
143 Subsection [~~(2)~~] (3)(b)(i) to no longer than midnight of the third business day after the arrested  
144 person's first court appearance.

145 (B) If criminal charges are filed against the arrested person within the three business  
146 days under Subsection [~~(2)~~] (3)(b)(ii)(A), the jail release agreement or the jail release court  
147 order continues in effect until the arrested person appears in person or by video at the arrested  
148 person's next scheduled court appearance.

149 (c) If criminal charges have been filed against the arrested person the court may, upon  
150 the request of the prosecutor or the victim or upon the court's own motion, issue a pretrial  
151 protective order.

152 [~~(3)~~] (4) As a condition of release, the court may order the defendant to participate in  
153 an electronic or other monitoring program and to pay the costs associated with the program.

154 [~~(4)~~] (5) (a) Subsequent to an arrest for domestic violence, an alleged victim may  
155 waive in writing any or all of the release conditions described in Subsection [~~(1)~~] (2)(a) or (c).  
156 Upon waiver, those release conditions do not apply to the alleged perpetrator.

157 (b) A court or magistrate may modify the release conditions described in Subsections  
158 (1)(a) or (c), in writing or on the record, and only for good cause shown.

159 [~~(5)~~] (6) (a) When a person is released pursuant to Subsection [~~(1)~~] (2), the releasing  
160 agency shall notify the arresting law enforcement agency of the release, conditions of release,  
161 and any available information concerning the location of the victim. The arresting law  
162 enforcement agency shall then make a reasonable effort to notify the victim of that release.

163 (b) (i) When a person is released pursuant to Subsection [~~(1)~~] (2) based on a written jail  
164 release agreement, the releasing agency shall transmit that information to the statewide  
165 domestic violence network described in Section 78B-7-113.

166 (ii) When a person is released pursuant to Subsection [~~(1)~~] (2) or [~~(2)~~] (3) based upon a  
167 jail release court order or if a jail release agreement is modified pursuant to Subsection [~~(4)~~]  
168 (5)(b), the court shall transmit that order to the statewide domestic violence network described  
169 in Section 78B-7-113.

170 (iii) A copy of the jail release court order or written jail release agreement shall be  
171 given to the person by the releasing agency before the person is released.

172 (c) This Subsection [~~(5)~~] (6) does not create or increase liability of a law enforcement  
173 officer or agency, and the good faith immunity provided by Section 77-36-8 is applicable.

174 [~~(6)~~] (7) (a) If a law enforcement officer has probable cause to believe that a person has  
175 violated a jail release court order or jail release agreement executed pursuant to Subsection  
176 [~~(1)~~] (2) the officer shall, without a warrant, arrest the alleged violator.

177 (b) Any person who knowingly violates a jail release court order or jail release  
178 agreement executed pursuant to Subsection [~~(1)~~] (2) is guilty as follows:

179 (i) if the original arrest was for a felony, an offense under this section is a third degree  
180 felony; or

181 (ii) if the original arrest was for a misdemeanor, an offense under this section is a class  
182 A misdemeanor.

183 (c) City attorneys may prosecute class A misdemeanor violations under this section.

184 [~~(7)~~] (8) An individual who was originally arrested for a felony under this chapter and  
185 released pursuant to this section may subsequently be held without bail if there is substantial  
186 evidence to support a new felony charge against him.

187 [~~(8)~~] (9) At the time an arrest for domestic violence is made, the arresting officer shall  
188 provide the alleged victim with written notice containing:

189 (a) the release conditions described in Subsection [~~(1)~~] (2), and notice that those  
190 release conditions shall be ordered by a court or must be agreed to by the alleged perpetrator  
191 prior to release;

192 (b) notification of the penalties for violation of any jail release court order or any jail  
193 release agreement executed under Subsection [~~(1)~~] (2);

194 (c) notification that the alleged perpetrator is to personally appear in court on the next  
195 day the court is open for business after the day of the arrest;

196 (d) the address of the appropriate court in the district or county in which the alleged  
197 victim resides;

198 (e) the availability and effect of any waiver of the release conditions; and

199 (f) information regarding the availability of and procedures for obtaining civil and  
200 criminal protective orders with or without the assistance of an attorney.

201 ~~[(9)]~~ (10) At the time an arrest for domestic violence is made, the arresting officer shall  
202 provide the alleged perpetrator with written notice containing:

203 (a) notification that the alleged perpetrator may not contact the alleged victim before  
204 being released;

205 ~~[(a)]~~ (b) the release conditions described in Subsection ~~[(1)]~~ (2) and notice that those  
206 release conditions shall be ordered by a court or shall be agreed to by the alleged perpetrator  
207 prior to release;

208 ~~[(b)]~~ (c) notification of the penalties for violation of any jail release court order or any  
209 written jail release agreement executed under Subsection ~~[(1)]~~ (2); and

210 ~~[(c)]~~ (d) notification that the alleged perpetrator is to personally appear in court on the  
211 next day the court is open for business after the day of the arrest[;].

212 ~~[(10)]~~ (11) (a) If the alleged perpetrator fails to personally appear in court as scheduled,  
213 the jail release court order or jail release agreement does not expire and continues in effect until  
214 the alleged perpetrator makes the personal appearance in court as required by Section  
215 77-36-2.6.

216 (b) If, when the alleged perpetrator personally appears in court as required by Section  
217 77-36-2.6, criminal charges have not been filed against the arrested person, the court may allow  
218 the jail release court order or jail release agreement to expire at midnight on the day of the  
219 court appearance or may extend it for good cause.

220 ~~[(11)]~~ (12) In addition to the provisions of Subsections ~~[(1)]~~ (2) through ~~[(7)]~~ (8),  
221 because of the unique and highly emotional nature of domestic violence crimes, the high  
222 recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of  
223 violence subsequent to the release of an offender who has been arrested for domestic violence,  
224 it is the finding of the Legislature that domestic violence crimes, as defined in Section 77-36-1,  
225 are crimes for which bail may be denied if there is substantial evidence to support the charge,



226 and if the court finds by clear and convincing evidence that the alleged perpetrator would  
227 constitute a substantial danger to an alleged victim of domestic violence if released on bail.