

**Senator Karen Mayne** proposes the following substitute bill:

**CONSANGUINITY AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karen Mayne**

House Sponsor: Paul Ray

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**LONG TITLE**

**General Description:**

This bill adds definitions of certain relationships to the Utah Criminal Code.

**Highlighted Provisions:**

This bill:

- ▶ defines consanguinity and affinity, as used in the Utah Criminal Code and the Cohabitant Abuse Act; and
- ▶ makes technical corrections.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**76-1-601**, as last amended by Laws of Utah 2019, Chapter 211

**78B-7-102**, as last amended by Laws of Utah 2018, Chapter 255

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

Section 1. Section **76-1-601** is amended to read:



26 **76-1-601. Definitions.**

27 Unless otherwise provided, as used in this title:

28 (1) "Act" means a voluntary bodily movement and includes speech.

29 (2) "Actor" means a person whose criminal responsibility is in issue in a criminal  
30 action.

31 (3) "Affinity" means a relationship by marriage.

32 [~~(3)~~] (4) "Bodily injury" means physical pain, illness, or any impairment of physical  
33 condition.

34 [~~(4)~~] (5) "Conduct" means an act or omission.

35 (6) "Consanguinity" means a relationship by blood to the first or second degree,  
36 including an individual's parent, grandparent, sibling, child, aunt, uncle, niece, or nephew.

37 [~~(5)~~] (7) "Dangerous weapon" means:

38 (a) any item capable of causing death or serious bodily injury; or

39 (b) a facsimile or representation of the item, if:

40 (i) the actor's use or apparent intended use of the item leads the victim to reasonably  
41 believe the item is likely to cause death or serious bodily injury; or

42 (ii) the actor represents to the victim verbally or in any other manner that he is in  
43 control of such an item.

44 [~~(6)~~] (8) "Grievous sexual offense" means:

45 (a) rape, Section 76-5-402;

46 (b) rape of a child, Section 76-5-402.1;

47 (c) object rape, Section 76-5-402.2;

48 (d) object rape of a child, Section 76-5-402.3;

49 (e) forcible sodomy, Subsection 76-5-403(2);

50 (f) sodomy on a child, Section 76-5-403.1;

51 (g) aggravated sexual abuse of a child, Subsection 76-5-404.1(4);

52 (h) aggravated sexual assault, Section 76-5-405;

53 (i) any felony attempt to commit an offense described in Subsections [~~(6)~~] (8)(a)  
54 through (h); or

55 (j) an offense in another state, territory, or district of the United States that, if  
56 committed in Utah, would constitute an offense described in Subsections [~~(6)~~] (8)(a) through

57 (i).

58 [~~(7)~~] (9) "Offense" means a violation of any penal statute of this state.

59 [~~(8)~~] (10) "Omission" means a failure to act when there is a legal duty to act and the  
60 actor is capable of acting.

61 [~~(9)~~] (11) "Person" means an individual, public or private corporation, government,  
62 partnership, or unincorporated association.

63 [~~(10)~~] (12) "Possess" means to have physical possession of or to exercise dominion or  
64 control over tangible property.

65 [~~(11)~~] (13) "Public entity" means:

66 (a) the state, or an agency, bureau, office, department, division, board, commission,  
67 institution, laboratory, or other instrumentality of the state;

68 (b) a political subdivision of the state, including a county, municipality, interlocal  
69 entity, local district, special service district, school district, or school board;

70 (c) an agency, bureau, office, department, division, board, commission, institution,  
71 laboratory, or other instrumentality of a political subdivision of the state; or

72 (d) another entity that:

73 (i) performs a public function; and

74 (ii) is authorized to hold, spend, transfer, disburse, use, or receive public money.

75 [~~(12)~~] (14) (a) "Public money" or "public funds" means money, funds, or accounts,  
76 regardless of the source from which they are derived, that:

77 (i) are owned, held, or administered by an entity described in Subsections [~~(11)~~] (13)(a)  
78 through (c); or

79 (ii) are in the possession of an entity described in Subsection [~~(11)~~] (13)(d)(i) for the  
80 purpose of performing a public function.

81 (b) "Public money" or "public funds" includes money, funds, or accounts described in  
82 Subsection [~~(12)~~] (14)(a) after the money, funds, or accounts are transferred by a public entity  
83 to an independent contractor of the public entity.

84 (c) "Public money" or "public funds" remains public money or public funds while in  
85 the possession of an independent contractor of a public entity for the purpose of providing a  
86 program or service for, or on behalf of, the public entity.

87 [~~(13)~~] (15) "Public officer" means:

- 88 (a) an elected official of a public entity;
- 89 (b) an individual appointed to, or serving an unexpired term of, an elected official of a
- 90 public entity;
- 91 (c) a judge of a court of record or not of record, including justice court judges; or
- 92 (d) a member of the Board of Pardons and Parole.

93 ~~[(14)]~~ (16) (a) "Public servant" means:

- 94 (i) a public officer;
- 95 (ii) an appointed official, employee, consultant, or independent contractor of a public
- 96 entity; or
- 97 (iii) a person hired or paid by a public entity to perform a government function.

98 (b) Public servant includes a person described in Subsection ~~[(14)]~~ (16)(a) upon the

99 person's election, appointment, contracting, or other selection, regardless of whether the person

100 has begun to officially occupy the position of a public servant.

101 ~~[(15)]~~ (17) "Serious bodily injury" means bodily injury that creates or causes serious

102 permanent disfigurement, protracted loss or impairment of the function of any bodily member

103 or organ, or creates a substantial risk of death.

104 ~~[(16)]~~ (18) "Substantial bodily injury" means bodily injury, not amounting to serious

105 bodily injury, that creates or causes protracted physical pain, temporary disfigurement, or

106 temporary loss or impairment of the function of any bodily member or organ.

107 ~~[(17)]~~ (19) "Writing" or "written" includes any handwriting, typewriting, printing,

108 electronic storage or transmission, or any other method of recording information or fixing

109 information in a form capable of being preserved.

110 Section 2. Section **78B-7-102** is amended to read:

111 **78B-7-102. Definitions.**

112 As used in this chapter:

113 (1) "Abuse" means intentionally or knowingly causing or attempting to cause a

114 cohabitant physical harm or intentionally or knowingly placing a cohabitant in reasonable fear

115 of imminent physical harm.

116 (2) "Affinity" means the same as that term is defined in Section [76-1-601](#).

117 ~~[(2)]~~ (3) (a) "Cohabitant" means an emancipated person pursuant to Section [15-2-1](#) or a

118 person who is 16 years of age or older who:

- 119           ~~[(a)]~~ (i) is or was a spouse of the other party;
- 120           ~~[(b)]~~ (ii) is or was living as if a spouse of the other party;
- 121           ~~[(c)]~~ (iii) is related by blood or marriage to the other party as the person's parent,
- 122 grandparent, sibling, or any other person related to the person by consanguinity or affinity to
- 123 the second degree;
- 124           ~~[(d)]~~ (iv) has or had one or more children in common with the other party;
- 125           ~~[(e)]~~ (v) is the biological parent of the other party's unborn child;
- 126           ~~[(f)]~~ (vi) resides or has resided in the same residence as the other party; or
- 127           ~~[(g)]~~ (vii) is or was in a consensual sexual relationship with the other party.
- 128           ~~[(3) Notwithstanding Subsection (2), "cohabitant"]~~
- 129           (b) "Cohabitant" does not include:
- 130           ~~[(a)]~~ (i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or
- 131           ~~[(b)]~~ (ii) the relationship between natural, adoptive, step, or foster siblings who are
- 132 under 18 years of age.
- 133           (4) "Consanguinity" means the same as that term is defined in Section [76-1-601](#).
- 134           ~~[(4)]~~ (5) "Court clerk" means a district court clerk.
- 135           ~~[(5)]~~ (6) "Domestic violence" means the same as that term is defined in Section
- 136 [77-36-1](#).
- 137           ~~[(6)]~~ (7) "Ex parte protective order" means an order issued without notice to the
- 138 respondent in accordance with this chapter.
- 139           ~~[(7)]~~ (8) "Foreign protection order" means the same as that term is defined in Section
- 140 [78B-7-302](#).
- 141           ~~[(8)]~~ (9) "Law enforcement unit" or "law enforcement agency" means any public
- 142 agency having general police power and charged with making arrests in connection with
- 143 enforcement of the criminal statutes and ordinances of this state or any political subdivision.
- 144           ~~[(9)]~~ (10) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace
- 145 Officer Classifications.
- 146           ~~[(10)]~~ (11) "Protective order" means:
- 147           (a) an order issued pursuant to this chapter subsequent to a hearing on the petition, of
- 148 which the petitioner and respondent have been given notice in accordance with this chapter; or
- 149           (b) an order issued under Subsection [77-36-5.1\(6\)](#).