

SB0197S01 compared with SB0197

~~text~~ shows text that was in SB0197 but was deleted in SB0197S01.

text shows text that was not in SB0197 but was inserted into SB0197S01.

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Senator Karen Mayne proposes the following substitute bill:

CONSANGUINITY AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: _____

LONG TITLE

General Description:

This bill adds ~~to the Utah Code~~ 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

SB0197S01 compared with SB0197

Utah Code Sections Affected:

AMENDS:

~~{20A-1-306}~~76-1-601, as last amended by Laws of Utah 2019, Chapter ~~{24}~~211
~~{68-3-12.5}~~78B-7-102, as last amended by Laws of Utah ~~{2019}~~2018, Chapter
~~{24}~~255

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

Section 1. Section ~~{20A-1-306}~~76-1-601 is amended to read:

~~{20A-1-306. Electronic signatures prohibited.~~

~~Notwithstanding Title 46, Chapter 4, Uniform Electronic Transactions Act, and Subsections 68-3-12(1)(e) and 68-3-12.5{(28)}{(29)} and {(40)} (41), an electronic signature may not be used to sign a petition to:~~

~~(1) qualify a ballot proposition for the ballot under Chapter 7, Issues Submitted to the Voters;~~

~~(2) organize and register a political party under Chapter 8, Political Party Formation and Procedures; or~~

~~(3) qualify a candidate for the ballot under Chapter 9, Candidate Qualifications and Nominating Procedures.~~

~~Section 2. Section 68-3-12.5 is amended to read:~~

~~68-3-12.5}{76-1-601. Definitions{ for Utah Code:~~

~~(1) The definitions listed in this section apply to the Utah Code, unless:~~

~~(a) the definition is inconsistent with the manifest intent of the Legislature or repugnant to the context of the statute; or~~

~~(b) a different definition is expressly provided for the respective title, chapter, part, section, or subsection.~~

~~(2) "Adjudicative proceeding" means:~~

~~(a) an action by a board, commission, department, officer, or other administrative unit of the state that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including an action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and~~

~~(b) judicial review of an action described in Subsection (2)(a).~~

SB0197S01 compared with SB0197

~~(3) "Administrator" includes "executor" when the subject matter justifies the use.~~

~~(4) "Advisory board," "advisory commission," and "advisory council" mean a board, commission, committee, or council that:~~

~~(a) is created by, and whose duties are provided by, statute or executive order;~~

~~(b) performs its duties only under the supervision of another person as provided by statute; and~~

~~(c) provides advice and makes recommendations to another person that makes policy for the benefit of the general public.~~

~~(5):~~

Unless otherwise provided, as used in this title:

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

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

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

[~~(5)~~ 3] (~~6~~) "Armed forces" means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

[~~(6)~~ (7) "City" includes, depending on population, a metro township as defined in Section 10-3c-102.

[~~(8)~~ 4] "Bodily injury" means physical pain, illness, or any impairment of physical condition.

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

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

[~~(7)~~ 5] (~~9~~) "County executive" 7) "Dangerous weapon" means:

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

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

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

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

SB0197S01 compared with SB0197

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

~~(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52a, Changing Forms of County Government;~~

~~—— (b) the county executive, in the county executive-council optional form of government authorized by Section 17-52a-203; or~~

~~—— (c) the county manager, in the council-manager optional form of government authorized by Section 17-52a-204;~~ rape, Section 76-5-402;

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

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

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

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

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

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

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

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

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

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

~~[(8)]~~ (10) "~~{County legislative body}~~" means:

~~—— (a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52a, Changing Forms of County Government;~~

~~—— (b) the county council, in the county executive-council optional form of government authorized by Section 17-52a-203; and~~

~~—— (c) the county council, in the council-manager optional form of government authorized by Section 17-52a-204;~~ Omission" means a failure to act when there is a legal duty to act and the actor is capable of acting.

~~[(9)]~~ (11) "~~{Depose}~~" means ~~to make a written statement made under oath or~~

SB0197S01 compared with SB0197

~~affirmation.~~

~~—— [(10)] (12) "Executor" includes "administrator" when the subject matter justifies the use.~~

~~—— [(11)] (13) "Guardian" includes a person who:~~

~~—— (a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment; or~~

~~—— (b) is appointed by a court to manage the estate of a minor or incapacitated person.~~

~~—— [(12)] (14) "Highway" includes:~~

~~—— (a) a public bridge;~~

~~—— (b) a county way;~~

~~—— (c) a county road;~~

~~—— (d) a common road; and~~

~~—— (e) a state road.~~

~~—— [(13)] (15) "Intellectual disability" means a significant, subaverage general intellectual functioning that:~~

~~—— (a) exists concurrently with deficits in adaptive behavior; and~~

~~—— (b) is manifested during the developmental period as defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.~~

~~—— [(14)] (16) "Intermediate care facility for people with an intellectual disability" means an intermediate care facility for the mentally retarded, as defined in Title XIX of the Social Security Act.~~

~~—— [(15)] (17) "Land" includes:~~

~~—— (a) land;~~

~~—— (b) a tenement;~~

~~—— (c) a hereditament;~~

~~—— (d) a water right;~~

~~—— (e) a possessory right; and~~

~~—— (f) a claim.~~

~~—— [(16)] (18) "Month" means a calendar month, unless otherwise expressed.~~

~~—— [(17)] (19) "Oath" includes "affirmation."~~

SB0197S01 compared with SB0197

~~[(18)] (20) "Person" means:~~

~~(a) an individual;~~

~~(b) an association;~~

~~(c) an institution;~~

~~(d) a corporation;~~

~~(e) a company;~~

~~(f) a trust;~~

~~(g) a limited liability company;~~

~~(h) a partnership;~~

~~(i) a political subdivision;~~

~~(j) a government;~~ public or private corporation, government, partnership, or unincorporated association.

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

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

(a) the state, or an agency, bureau, office, department, division, ~~{bureau, or other body of government; and~~

~~(k) any other organization or entity.~~

~~[(19)] (21) "Personal property" includes:~~

~~(a) money;~~

~~(b) goods;~~

~~(c) chattels;~~

~~(d) effects;~~

~~(e) evidences of a right in action;~~

~~(f) a written instrument by which a pecuniary obligation, right, or title to property is created, acknowledged, transferred, increased, defeated, discharged, or diminished; and~~

~~(g) a right or interest in an item;~~ board, commission, institution, laboratory, or other instrumentality of the state;

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

(c) an agency, bureau, office, department, division, board, commission, institution,

SB0197S01 compared with SB0197

laboratory, or other instrumentality of a political subdivision of the state; or

(d) another entity that:

(i) performs a public function; and

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

~~[(12)]~~ (14) (a) "Public money" or "public funds" means money, funds, or accounts,

regardless of the source from which they are derived, that:

(i) are owned, held, or administered by an entity described in Subsections [~~((19); 11)]~~

~~((21); 13)~~(a) through ~~((f))~~:

~~———— [(20)] (22) "Personal representative," "executor," and "administrator" include:~~

~~———— (a) an executor;~~

~~———— (b) an administrator;~~

~~———— (c) a successor personal representative;~~

~~———— (d) a special administrator; and~~

~~———— (e) a person who performs substantially the same function as }c); or~~

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

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

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

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

(a) an elected official of a public entity;

(b) an individual appointed to, or serving an unexpired term of, an elected official of a public entity;

(c) a judge of a court of record or not of record, including justice court judges; or

(d) a member of the Board of Pardons and Parole.

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

(i) a public officer;

(ii) an appointed official, employee, consultant, or independent contractor of a public

SB0197S01 compared with SB0197

entity; or

(iii) a person hired or paid by a public entity to perform a government function.

(b) Public servant includes a person described in ~~{Subsections}~~ Subsection [~~(20)~~14]

~~(22)(a) through (d) under the law governing the person's status:~~

~~— [(21)] (23) "Policy board," "policy commission," or "policy council" means a board, commission, or council that:~~

~~— (a) is authorized to make policy for the benefit of the general public;~~

~~— (b) is created by, and whose duties are provided by, the constitution or statute; and~~

~~— (c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.~~

~~— [(22)] (24) "Population" is shown by the most recent state or national census, unless expressly provided otherwise.~~

~~— [(23)] (25) "Process" means a writ or summons issued in the course of a judicial proceeding.~~

~~— [(24)] (26) "Property" includes both real and personal property.~~

~~— [(25)] (27) "Real estate" or "real property" includes:~~

~~— (a) land;~~

~~— (b) a tenement;~~

~~— (c) a hereditament;~~

~~— (d) a water right;~~

~~— (e) a possessory right; and~~

~~— (f) a claim.~~

~~— [(26)] (28) "Review board," "review commission," and "review council" mean a board, commission, committee, or council that:~~

~~— (a) is authorized to approve policy made for the benefit of the general public by another body or person;~~

~~— (b) is created by, and whose duties are provided by, statute; and~~

~~— (c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.~~

~~— [(27)] (29) "Road" includes:~~

~~— (a) a public bridge;~~

SB0197S01 compared with SB0197

- ~~_____ (b) a county way;~~
- ~~_____ (c) a county road;~~
- ~~_____ (d) a common road; and~~
- ~~_____ (e) a state road;~~
- ~~_____ [(28)] (30) "Signature" includes a name, mark, or sign written with the intent to authenticate an instrument or writing;~~
- ~~_____ [(29)] (31) "State," when applied to the different parts of the United States, includes a state, district, or territory of the United States;~~
- ~~_____ [(30)] (32) "Swear" includes "affirm."~~
- ~~_____ [(31)] (33) "Testify" means to make an oral statement under oath or affirmation;~~
- ~~_____ [(32)] (34) "Town" includes, depending on population, a metro township as defined in Section 10-3e-102;~~
- ~~_____ [(33)] (35) "Uniformed services" means:~~
 - ~~_____ (a) the armed forces;~~
 - ~~_____ (b) the commissioned corps of the National Oceanic and Atmospheric Administration; and~~
 - ~~_____ (c) the commissioned corps of the United States Public Health Service;~~
- ~~_____ [(34)] (36) "United States" includes each state, district, and territory of the United States of America;~~
- ~~_____ [(35)] (37) "Utah Code" means the 1953 recodification of the Utah Code, as amended, unless the text expressly references a portion of the 1953 recodification of the Utah Code as it existed:~~
 - ~~_____ (a) on the day on which the 1953 recodification of the Utah Code was enacted; or~~
 - ~~_____ (b) (i) after the day described in Subsection [(35)] (37)(a); and~~
 - ~~_____ (ii) before the most recent amendment to the referenced portion of the 1953 recodification of the Utah Code;~~
- ~~_____ [(36)] (38) "Vessel," when used with reference to shipping, includes a steamboat, canal boat, and every structure adapted to be navigated from place to place;~~
- ~~_____ [(37)] (39) (a) "Veteran" means an individual who:~~
 - ~~_____ (i) has served in the United States Armed Forces for at least 180 days;~~
 - ~~_____ (A) on active duty; or~~

SB0197S01 compared with SB0197

~~(B) in a reserve component, to include the National Guard; or~~
~~(ii) has incurred an actual service-related injury or disability while in the United States Armed Forces regardless of whether the individual completed 180 days; and~~
~~(iii) was separated or retired under conditions characterized as honorable or general.~~
~~(b) This definition is not intended to confer eligibility for benefits.~~
~~[(38)] (40) "Will" includes a codicil.~~
~~[(39)] (41) "Writ" 16(a) upon the person's election, appointment, contracting, or other selection, regardless of whether the person has begun to officially occupy the position of a public servant.~~

[(15)] (17) "Serious bodily injury" means bodily injury that creates or causes serious permanent disfigurement, protracted loss or impairment of the function of any bodily member or organ, or creates a substantial risk of death.

[(16)] (18) "Substantial bodily injury" means bodily injury, not amounting to serious bodily injury, that creates or causes protracted physical pain, temporary disfigurement, or temporary loss or impairment of the function of any bodily member or organ.

[(17)] (19) "Writing" or "written" includes any handwriting, typewriting, printing, electronic storage or transmission, or any other method of recording information or fixing information in a form capable of being preserved.

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

78B-7-102. Definitions.

As used in this chapter:

(1) "Abuse" means intentionally or knowingly causing or attempting to cause a cohabitant physical harm or intentionally or knowingly placing a cohabitant in reasonable fear of imminent physical harm.

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

[(2)] (3) (a) "Cohabitant" means an emancipated person pursuant to Section 15-2-1 or a person who is 16 years of age or older who:

[(a)] (i) is or was a spouse of the other party;

[(b)] (ii) is or was living as if a spouse of the other party;

[(c)] (iii) is related by blood or marriage to the other party as the person's parent, grandparent, sibling, or any other person related to the person by consanguinity or affinity to

SB0197S01 compared with SB0197

the second degree:

~~[(d)]~~ (iv) has or had one or more children in common with the other party;

~~[(e)]~~ (v) is the biological parent of the other party's unborn child;

~~[(f)]~~ (vi) resides or has resided in the same residence as the other party; or

~~[(g)]~~ (vii) is or was in a consensual sexual relationship with the other party.

~~[(3)]~~ Notwithstanding Subsection (2), "cohabitant"

(b) "Cohabitant" does not include:

~~[(a)]~~ (i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or

~~[(b)]~~ (ii) the relationship between natural, adoptive, step, or foster siblings who are

under 18 years of age.

(4) "Consanguinity" means the same as that term is defined in Section 76-1-601.

~~[(4)]~~ (5) "Court clerk" means a district court clerk.

~~[(5)]~~ (6) "Domestic violence" means the same as that term is defined in Section

77-36-1.

~~[(6)]~~ (7) "Ex parte protective order" means an order ~~{ or precept in writing, }~~ issued ~~{ in~~
the name of:

~~_____ (a) the state;~~

~~_____ (b) a court; or~~

~~_____ (c) a judicial officer.~~

~~_____ ~~[(40)]~~ (42) "Writing" includes:~~

~~_____ (a) printing;~~

~~_____ (b) handwriting; and~~

~~_____ (c) information stored in an electronic or other medium if the information is retrievable
in a perceivable format.~~

~~}~~ without notice to the respondent in accordance with this chapter.

~~[(7)]~~ (8) "Foreign protection order" means the same as that term is defined in Section
78B-7-302.

~~[(8)]~~ (9) "Law enforcement unit" or "law enforcement agency" means any public
agency having general police power and charged with making arrests in connection with
enforcement of the criminal statutes and ordinances of this state or any political subdivision.

~~[(9)]~~ (10) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace

SB0197S01 compared with SB0197

Officer Classifications.

~~[(10)]~~ (11) "Protective order" means:

(a) an order issued pursuant to this chapter subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice in accordance with this chapter; or

(b) an order issued under Subsection 77-36-5.1(6).