

BATTERED PERSON MITIGATION AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher

House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill provides for mitigation of certain criminal charges related to cohabitant abuse.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for an offense reduction for an individual convicted of an offense if the individual committed the offense as a result of cohabitant abuse; and
- ▶ provides procedures for proving and finding an individual is entitled to the offense reduction in court.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-2-409, Utah Code Annotated 1953

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

Section 1. Section **76-2-409** is enacted to read:

76-2-409. Battered person mitigation.



- 28 (1) As used in this section:
- 29 (a) "Abuse" means the same as that term is defined in Section [78B-7-102](#).
- 30 (b) "Cohabitant" means:
- 31 (i) the same as that term is defined in Section [78B-7-102](#); or
- 32 (ii) the relationship of a minor and a natural parent, an adoptive parent, a stepparent, or
- 33 an individual living with the minor's natural parent as if a stepparent to the minor.
- 34 (2) (a) An individual is entitled to battered person mitigation if:
- 35 (i) the individual committed a criminal offense that was not legally justified;
- 36 (ii) the individual committed the criminal offense against a cohabitant who
- 37 demonstrated a pattern of abuse against the individual or another cohabitant of the individual;
- 38 and
- 39 (iii) the individual reasonably believed that the criminal offense was necessary to end
- 40 the pattern of abuse.
- 41 (b) A reasonable belief under Subsection (2)(a) is determined from the viewpoint of a
- 42 reasonable person in the individual's circumstances, as the individual's circumstances are
- 43 perceived by the individual.
- 44 (3) An individual claiming mitigation under Subsection (2)(a) has the burden of
- 45 proving, by clear and convincing evidence, each element that would entitle the individual to
- 46 mitigation under Subsection (2)(a).
- 47 (4) Mitigation under Subsection (2)(a) results in a one-step reduction of the level of
- 48 offense of which the individual is convicted.
- 49 (5) If the trier of fact is a jury, an individual is not entitled to mitigation under
- 50 Subsection (2)(a) unless the jury:
- 51 (a) finds the individual proved, in accordance with Subsection (3), that the individual is
- 52 entitled to mitigation by unanimous vote; and
- 53 (b) returns a special verdict for the reduced charge at the same time the jury returns the
- 54 general verdict.