

Addition of Intimate Partner Definition

77-36-1. Definitions

As used in this chapter:

- (1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.
- (2) "Department" means the Department of Public Safety.
- (3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter 3, Divorce.
- (4) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" or "domestic violence offense" also means commission or attempt to commit, any of the following offenses by one cohabitant against another:
 - (a) aggravated assault, as described in Section 76-5-103;
 - (b) assault, as described in Section 76-5-102;
 - (c) criminal homicide, as described in Section 76-5-201;
 - (d) harassment, as described in Section 76-5-106;
 - (e) electronic communication harassment, as described in Section 76-9-201;
 - (f) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;
 - (g) mayhem, as described in Section 76-5-105;
 - (h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and Section 76-5b-201, Sexual Exploitation of a Minor;
 - (i) stalking, as described in Section 76-5-106.5;
 - (j) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;
 - (k) violation of a protective order or ex parte protective order, as described in Section 76-5-108;
 - (l) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;
 - (m) possession of a deadly weapon with intent to assault, as described in Section 76-10-507;
 - (n) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508;
 - (o) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly conduct is the result of a plea agreement in which the defendant was originally charged with a domestic violence offense otherwise described in this Subsection (4). Conviction of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(o), does not constitute a misdemeanor

crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the provisions of the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.; or

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

(5) "Intimate Partner" means:

(a) a current or former spouse of the victim;

(b) a person with whom the victim shares a child in common; or is the biological parent of the victim's unborn child; or

(c) a person who resides or has resided with the victim in a romantic, dating or sexual relationship.

(6)~~(5)~~ "Jail release agreement" means a written agreement:

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

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

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

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

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

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

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

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

(11)~~(10)~~ "Pretrial protective order" means a written order:

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

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

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

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

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

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) "Cohabitant" means an emancipated person pursuant to Section 15-2-1 or a person who is 16 years of age or older who:
 - (a) is or was a spouse of the other party;
 - (b) is or was living as if a spouse of the other party;
 - (c) is related by blood or marriage to the other party;
 - (d) has or had one or more children in common with the other party;
 - (e) is the biological parent of the other party's unborn child; or
 - (f) resides or has resided in the same residence as the other party.
- (3) Notwithstanding Subsection (2), "cohabitant" does not include:
 - (a) the relationship of natural parent, adoptive parent, or step-parent to a minor; or
 - (b) the relationship between natural, adoptive, step, or foster siblings who are under 18 years of age.
- (4) "Court clerk" means a district court clerk.
- (5) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- (6) "Ex parte protective order" means an order issued without notice to the defendant in accordance with this chapter.
- (7) "Foreign protection order" is as defined in Section 78B-7-302.
- (8) "Intimate Partner" means:
 - (a) a current or former spouse of the victim;
 - (b) a person with whom the victim shares a child in common; or is the biological parent of the victim's unborn child; or
 - (c) a person who resides or has resided with the victim in a romantic, dating or sexual relationship.
- (9)(8) "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.
- (10)(9) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace Officer Classifications.
- (11)(10) "Protective order" means 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.