

**DOMESTIC VIOLENCE IN PRESENCE OF A
CHILD AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kerry W. Gibson

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill modifies the Criminal Code regarding the commission of an act of domestic violence in the presence of one or more children.

Highlighted Provisions:

This bill:

- modifies the offense of committing domestic violence in the presence of a child to provide that if more than one child is present, a separate offense is committed regarding each child.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-109.1, as last amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section **76-5-109.1** is amended to read:

76-5-109.1. Commission of domestic violence in the presence of a child.



- 28 (1) As used in this section:
- 29 (a) "Cohabitant" has the same meaning as defined in Section 78B-7-102.
- 30 (b) "Domestic violence" has the same meaning as in Section 77-36-1.
- 31 (c) "In the presence of a child" means:
- 32 (i) in the physical presence of a child; or
- 33 (ii) having knowledge that a child is present and may see or hear an act of domestic
- 34 violence.
- 35 (2) A person ~~[is guilty of child abuse if the person]~~ commits domestic violence in the
- 36 presence of a child if the person:
- 37 (a) commits or attempts to commit criminal homicide, as defined in Section 76-5-201,
- 38 against a cohabitant in the presence of a child; or
- 39 (b) intentionally causes serious bodily injury to a cohabitant or uses a dangerous
- 40 weapon, as defined in Section 76-1-601, or other means or force likely to produce death or
- 41 serious bodily injury against a cohabitant, in the presence of a child; or
- 42 (c) under circumstances not amounting to a violation of Subsection (2)(a) or (b),
- 43 commits an act of domestic violence in the presence of a child.
- 44 (3) (a) A person who violates Subsection (2)(a) or (b) is guilty of a third degree felony.
- 45 (b) A person who violates Subsection (2)(c) is guilty of a class B misdemeanor.
- 46 (4) A charge under this section is separate and distinct from, and is in addition to, a
- 47 charge of domestic violence where the victim is the cohabitant. Either or both charges may be
- 48 filed by the prosecutor.
- 49 (5) A person who commits a violation of this section when more than one child is
- 50 present is guilty of one offense of domestic violence in the presence of a child regarding each
- 51 child present when the violation occurred.

Legislative Review Note
as of 1-20-09 4:39 PM

Office of Legislative Research and General Counsel

H.B. 275 - Domestic Violence in Presence of a Child Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill may have an impact on local justice courts, however the the effect is unquantifiable at this time.
