

76-3-203.9 Violent offense committed in presence of a child -- Aggravating factor.

- (1) As used in this section:
 - (a) "In the presence of a child" means:
 - (i) in the physical presence of a child younger than 14 years of age; or
 - (ii) having knowledge that a child younger than 14 years of age is present and may see or hear a violent criminal offense.
 - (b) "Violent criminal offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt to commit a criminal offense involving violence or physical harm.
- (2) The sentencing judge or the Board of Pardons and Parole shall consider as an aggravating factor in their deliberations that the defendant committed the violent criminal offense in the presence of a child.
- (3) The sentencing judge or the Board of Pardons and Parole shall also consider whether the penalty for the offense is already increased by other existing provisions of law.
- (4) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech or other recognized rights secured by the Constitution or laws of Utah or by the Constitution or laws of the United States.
- (5) This section does not affect or restrict the exercise of judicial discretion under any other provision of Utah law.

Enacted by Chapter 347, 2007 General Session