

**VIOLENT CRIME IN PRESENCE OF A
CHILD**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Janice M. Fisher

Senate Sponsor: Ross I. Romero

LONG TITLE

General Description:

This bill modifies the Criminal Code regarding aggravating factors to be considered by the judge or the Board of Pardons and Parole.

Highlighted Provisions:

This bill:

▶ provides that the sentencing judge or the Board of Pardons and Parole shall consider the defendant's commission of a violent offense in the presence of a child 14 years of age or younger as an aggravating factor ~~It~~ **and clarifies that this provision does not affect any other provision regarding judicial discretion** ~~It~~ ; and

▶ provides definitions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-3-203.9, Utah Code Annotated 1953

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

Section 1. Section **76-3-203.9** is enacted to read:



28 76-3-203.9. Violent offense committed in presence of a child -- Aggravating factor.

29 (1) As used in this section:

30 (a) "In the presence of a child" means:

31 (i) in the physical presence of a child ~~H~~→ younger than 14 years of age ←~~H~~ ; or

32 (ii) having knowledge that a child younger than 14 years of age is present and may see
33 or hear a violent criminal offense.

34 (b) "Violent criminal offense" means any criminal offense involving violence or
35 physical harm or threat of violence or physical harm, or any attempt ~~S~~→ [~~conspiracy, or~~
35a ~~solicitation~~] ←~~S~~

36 to commit a criminal offense involving violence or physical harm.

37 (2) The sentencing judge or the Board of Pardons and Parole shall consider as an
38 aggravating factor in their deliberations that the defendant committed the violent criminal
39 offense in the presence of a child.

40 (3) The sentencing judge or the Board of Pardons and Parole shall also consider
41 whether the penalty for the offense is already increased by other existing provisions of law.

42 (4) This section does not affect or limit any individual's constitutional right to the
43 lawful expression of free speech or other recognized rights secured by the Constitution or laws
44 of Utah or by the Constitution or laws of the United States.

44a ~~H~~→(5) This section does not affect or restrict the exercise of judicial discretion under any
44b other provision of Utah law. ←~~H~~

Legislative Review Note
as of 12-29-06 9:18 AM

Office of Legislative Research and General Counsel

H.B. 274 - Violent Crime in Presence of a Child

Fiscal Note

2007 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 likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/22/2007, 2:39:48 PM, Lead Analyst: Byrne, D.

Office of the Legislative Fiscal Analyst