

**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 and clarifies that this provision does not affect any other provision regarding judicial discretion; 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:

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

30 (1) As used in this section:

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

32 (i) in the physical presence of a child younger than 14 years of age; or

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

35 (b) "Violent criminal offense" means any criminal offense involving violence or
36 physical harm or threat of violence or physical harm, or any attempt to commit a criminal
37 offense involving violence or physical harm.

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

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

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

46 (5) This section does not affect or restrict the exercise of judicial discretion under any
47 other provision of Utah law.