

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

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Kerry W. Gibson**

6 Senate Sponsor: Margaret Dayton

8 **LONG TITLE**

9 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

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

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **76-5-109.1**, as last amended by Laws of Utah 2008, Chapter 3

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

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

27 **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.