

1 **DOMESTIC VIOLENCE AMENDMENTS**

2 2020 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Jani Iwamoto**

5 House Sponsor: Paul Ray

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7 **LONG TITLE**

8 **General Description:**

9 This bill relates to the offense of commission of domestic violence in the presence of a  
10 child.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ increases the penalty for the offense of commission of domestic violence in the  
14 presence of a child; and
- 15 ▶ makes technical changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **76-5-109.1**, as last amended by Laws of Utah 2009, Chapter 70

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

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

26 **76-5-109.1. Commission of domestic violence in the presence of a child.**

27 (1) As used in this section:



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