

CHILD ABUSE AND EXPOSURE TO DOMESTIC VIOLENCE – CRIMINAL STATUTES

This chart lists state criminal statutes that enhance the penalty for a crime of domestic violence when the crime was witnessed by a child (including listing such as an aggravating factor in sentencing), or define a separate crime of domestic violence that specifically includes child witnessing. No civil statutes are included, nor are criminal statutes defining child abuse itself.

While these statutes are intended to hold an abuser fully accountable, they are problematic because domestic violence survivors are often targeted.¹ This unfairly blames the survivor for the abuser's actions and deprives children of the presence of a protective, caring adult, which research shows is the single biggest factor in a child's resilience.²

| State | Criminal statutes that take into account whether domestic violence was witnessed by a child |
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| Alabama | No relevant provisions |
| Alaska | ALASKA STAT. § 12.55.155(c)(18) [DV child presence enhancement] ³⁴ |
| Arizona | ARIZ. REV. STAT. ANN. § 13-701(D)(18) [DV child presence enhancement] |
| Arkansas | ARK. CODE ANN. § 5-4-702 [DV child presence enhancement] |
| California | CAL. PENAL CODE § 1170.76 [DV child presence enhancement] |
| Colorado | No relevant provisions |
| Connecticut | CONN. GEN. STAT. § 54-216 [restitution for children who witness DV] |
| Delaware | No relevant provisions |
| D.C. | No relevant provisions |
| Florida | FLA. STAT. § 921.0024 [DV child presence enhancement] FLA. STAT. § 741.283 [same] |
| Georgia | No relevant provisions |
| Hawaii | HAW. REV. STAT. § 706-606.4 [DV child presence enhancement] HAW. REV. STAT. § 709-906 [same] |
| Idaho | IDAHO CODE ANN. § 18-918 [DV child presence enhancement] |
| Illinois | 720 ILL. COMP. STAT. § 5/12-3.2 [DV child presence enhancement] |

¹ See National Council of Juvenile & Family Court Judges, EFFECTIVE INTERVENTION IN DOMESTIC VIOLENCE & CHILD MALTREATMENT CASES: GUIDELINES FOR POLICY AND PRACTICE 21-23 (1999); see also Melissa A. Trepiccione, *At the Crossroads of Law and Social Science: Is Charging a Battered Mother with Failure to Protect her Child an Acceptable Solution when her Child Witnesses Domestic Violence*, 69 FORDHAM L. REV. 1487 (2001).

² See Jack P. Shonkoff, Andrew S. Garner, & The Comm. on Psychosocial Aspects of Child and Fam. Health, Comm. on Early Childhood, Adoption, & Dependent Care, & Section on Developmental & Behavioral Pediatrics, *The Lifelong Effects of Early Childhood Adversity and Toxic Stress*, 129 PEDIATRICS e232 (2012), available at <http://pediatrics.aappublications.org/content/pediatrics/early/2011/12/21/peds.2011-2663.full.pdf>.

³ “DV child presence enhancement” indicates that the criminal law enhances the penalty for domestic violence when committed in the presence of a child, or that such is an aggravating factor for the purpose of sentencing. Differences among such statutes (e.g. definition of “presence” or any requisite relationship between offender and child) are not tracked.

⁴ Text in brackets is summary material.

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| Indiana | IND. CODE § 35-42-2-1.3(b)(2) [DV child presence enhancement] IND. CODE § 31-14-14-5 [rebuttable presumption of supervised visitation when noncustodial parent was convicted of DV that child witnessed] |
| Iowa | No relevant provisions |
| Kansas | No relevant provisions |
| Kentucky | No relevant provisions |
| Louisiana | LA. REV. STAT. ANN. § 14:35.3(l) [DV child presence enhancement] |
| Maine | No relevant provisions |
| Maryland | No relevant provisions |
| Massachusetts | No relevant provisions |
| Michigan | No relevant provisions |
| Minnesota | No relevant provisions |
| Mississippi | MISS. CODE ANN. § 97-3-7 [DV child presence enhancement] |
| Missouri | No relevant provisions |
| Montana | MONT. CODE ANN. § 45-5-206 [DV child presence “factor” at sentencing] |
| Nebraska | No relevant provisions |
| Nevada | NEV. REV. STAT. § 200.485(7) [counseling for children as a result of DV] |
| New Hampshire | No relevant provisions |
| New Jersey | No relevant provisions |
| New Mexico | No relevant provisions |
| New York | No relevant provisions |
| North Carolina | N.C. GEN. STAT. § 14-33 [DV child presence enhancement] |
| North Dakota | No relevant provisions |
| Ohio | OHIO REV. CODE ANN. § 2929.12 [DV child presence sentencing factor] OHIO REV. CODE ANN. § 2929.17 [counseling for offender] |
| Oklahoma | OKLA STAT. tit. 21, § 644 [DV child presence enhancement] |
| Oregon | OR. REV. STAT. § 163.160 [DV child presence enhancement] |
| Pennsylvania | No relevant provisions |
| Rhode Island | No relevant provisions |
| South Carolina | S.C. CODE ANN. § 16-25-20 [DV child presence enhancement] |
| South Dakota | No relevant provisions |
| Tennessee | No relevant provisions |
| Texas | No relevant provisions |
| Utah | UTAH CODE ANN. § 76-5-109.1 [separate crime - commission of DV in presence of child] |
| Vermont | VT. STAT. ANN. tit. 13, § 1047 [DV child presence enhancement] |
| Virginia | No relevant provisions |
| Washington | WASH. REV. CODE § 9.94A.535† [DV child presence enhancement] |
| West Virginia | No relevant provisions |
| Wisconsin | No relevant provisions |
| Wyoming | No relevant provisions |