



**STATE STATUTES**  
CURRENT THROUGH JANUARY 2021

# Child Witnesses to Domestic Violence

To find statute information for a particular State, go to [State Statutes Search](#).

Research shows that even when children are not direct targets of violence in the home, they can be harmed by witnessing its occurrence.<sup>1</sup> The witnessing of domestic violence can be auditory, visual, or inferred, including cases in which the child perceives the aftermath of violence, such as physical injuries to family members or damage to property. Children who witness domestic violence can suffer severe emotional and developmental difficulties that are similar to those of children who are direct victims of abuse.<sup>2</sup> Approximately 26 States and Puerto Rico recognize the need to protect and care for these children and currently address in statute the issue of children who witness domestic violence in their homes.<sup>3</sup>

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## CIRCUMSTANCES THAT CONSTITUTE WITNESSING

A child is a witness to domestic violence when an act that is defined as domestic violence is committed in the presence of or perceived by the child. In seven States, the definition goes no further than that.<sup>4</sup> In 15 States and Puerto Rico, the language used is more specific, stating that witnessing by a child occurs when the child is physically present or can see or hear the act of violence.<sup>5</sup> Ohio law states that witnessing occurs when the domestic violence is committed "in the vicinity of the child," meaning within 30 feet or within the same residential unit occupied by the child, whether or not the child is present or can see the commission of the offense.

In 12 States, the laws apply to any child who may be present or a witness to the act of domestic violence.<sup>6</sup> In 10 States and Puerto Rico, the laws apply specifically to a child who is related to or a member of the household of the victim or perpetrator of the violence.<sup>7</sup> The law in Indiana applies only to the noncustodial child of a noncustodial parent.

## LEGAL CONSEQUENCES

In many States, a conviction for domestic violence that was committed in the presence of a child may result in harsher penalties than a conviction for domestic violence without a child present. Approximately 9 States consider an act of domestic violence committed in the presence of a child an "aggravating circumstance" in their sentencing guidelines. This usually results in a longer jail term, an increased fine, or both.<sup>8</sup> An additional seven States, while not using the term "aggravating circumstance," require more severe penalties.<sup>9</sup> In five other States, committing domestic violence in the presence of a child is a separate crime that may be charged separately or in addition to the act of violence.<sup>10</sup>

In addition to any criminal penalties, Connecticut, Illinois, Louisiana, and Nevada require persons who engaged in domestic violence to pay for any counseling that a child victim may require. Ohio requires the offenders to undergo counseling. Indiana requires that a noncustodial parent who has been convicted of domestic violence in the presence of his or her noncustodial child be supervised during parenting time for at least 1 year and not more than 2 years following the act of domestic violence. The court also may require the noncustodial parent to complete a batterer's intervention program before unsupervised parenting time may be granted.

<sup>1</sup> For additional information about the impact of domestic violence on children, see Child Welfare Information Gateway's [Domestic Violence: A Primer for Child Welfare Professionals](#).

<sup>2</sup> Schechter, S., & Edelson, J. (1999). *Effective intervention in domestic violence and child maltreatment cases: Guidelines for policy and practice*. Reno, NV: National Council of Juvenile and Family Court Judges.

<sup>3</sup> The word "approximately" is used to stress the fact that the States frequently amend their laws. This information is current only through January 2021. Alabama, Alaska, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Louisiana, Maryland, Mississippi, Montana, Nevada, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, Utah, Vermont, and Washington address the issue in their statutes.

<sup>4</sup> Arizona, California, Delaware, Florida, Louisiana, South Carolina, and Vermont

<sup>5</sup> Alabama, Alaska, Arkansas, Georgia, Hawaii, Idaho, Illinois, Indiana, Mississippi, Montana, North Carolina, Oklahoma, Oregon, Utah, and Washington

<sup>6</sup> Alabama, Arizona, Georgia, Hawaii, Idaho, Louisiana, Maryland, Montana, Nevada, Ohio, Oklahoma, and Utah

<sup>7</sup> Alaska, Arkansas, California, Delaware, Florida, Illinois, Mississippi, North Carolina, Oregon, and Washington

<sup>8</sup> Alaska, Arizona, California, Hawaii, Mississippi, Montana, Ohio, South Carolina, and Washington

<sup>9</sup> Alabama, Arkansas, Florida, Idaho, Louisiana, Maryland, and Oregon

<sup>10</sup> Delaware, Georgia, North Carolina, Oklahoma, and Utah

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

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