

ASSEMBLY, No. 1305

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman GABRIELA M. MOSQUERA

District 4 (Camden and Gloucester)

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

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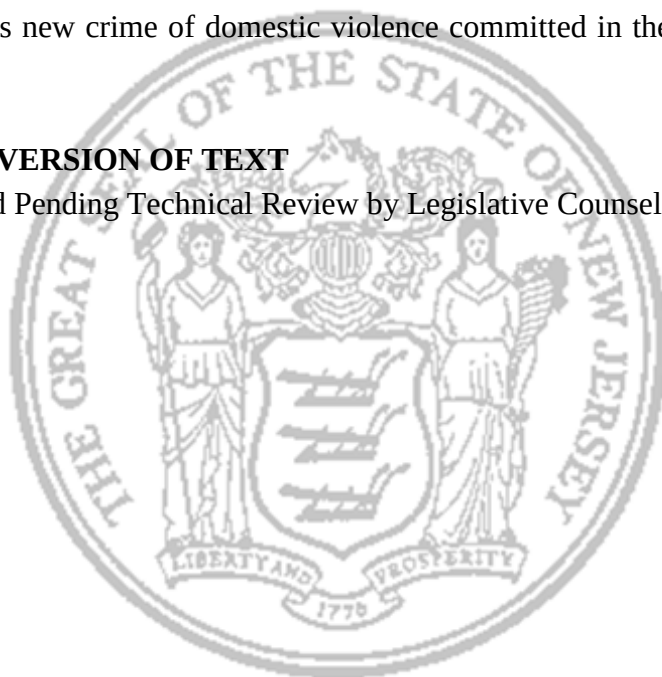
Assemblyman Space, Assemblywoman Jimenez, Assemblymen McKeon, Mazzeo, Assemblywomen McKnight, Pintor Marin, Assemblymen Chiaravalloti and Armato

SYNOPSIS

Establishes new crime of domestic violence committed in the presence of a child.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning domestic violence and supplementing Title 2C
2 of the New Jersey Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. A person is guilty of the crime of committing an act of
8 domestic violence in the presence of a child if the person commits
9 an act of domestic violence defined in subsection a. of section 3 of
10 P.L.1991, c.261 (C.2C:25-19) in the presence of a child to whom
11 the actor or the victim is a parent, guardian, or resource family
12 parent knowing that the child was present during the commission of
13 the act.

14 b. As used in this section:

15 “Child” means a person who is 16 years of age or younger.

16 “*In the presence of a child*” means in the physical presence of a
17 child or having knowledge that a child is present and may see or
18 hear an act of domestic violence.

19 c. The crime of committing an act of domestic violence in the
20 presence of a child is a crime of the fourth degree if the underlying
21 offense is a disorderly persons offense or petty disorderly persons
22 offense. Otherwise, the crime of committing an act of domestic
23 violence in the presence of a child is a crime one degree higher than
24 the most serious underlying offense.

25 d. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
26 provision of law, a conviction for the crime of committing an act of
27 domestic violence in the presence of a child shall not merge with a
28 conviction for any underlying offense, nor shall any conviction for
29 such underlying offense merge with a conviction for the crime of
30 committing an act of domestic violence in the presence of a child.
31 The court shall impose separate sentences upon a conviction for the
32 crime of committing an act of domestic violence in the presence of
33 a child and a conviction for any underlying offense.

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35 2. This act shall take effect immediately.

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STATEMENT

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40 This bill would establish the new crime of committing an act of
41 domestic violence in the presence of a child.

42 Under current law, a person commits an act of domestic violence
43 if the person commits one or more of acts of homicide, assault,
44 terroristic threats, kidnapping, criminal restraint, false
45 imprisonment, sexual assault, criminal sexual contact, lewdness,
46 criminal mischief, burglary, criminal trespass, harassment, or
47 stalking upon a person protected under the provisions of the
48 “Prevention of Domestic Violence Act of 1991,” P.L.1991, c.261

1 (C.2C:25-17 et seq.). In addition to the remedies available to a
2 victim under the provisions of the “Prevention of Domestic
3 Violence Act of 1991,” a person who commits an act of domestic
4 violence may be subject to criminal prosecution for the act that
5 constituted domestic violence.

6 This bill would provide that when the act of domestic violence is
7 committed in the presence of a child to whom the actor or the
8 victim is a parent, guardian, or resource family parent, the person
9 committing the act would be subject to criminal prosecution for
10 both the underlying offense and for the separate crime of
11 committing an act of domestic violence in the presence of a child.
12 However, the bill would not require the person be convicted of the
13 underlying offense to be convicted of committing an act of domestic
14 violence in the presence of a child.

15 This bill would require that the person committing the act of
16 domestic violence know the child was present during the
17 commission of the act. “In the presence of a child” would mean in
18 the physical presence of a child or having knowledge that a child is
19 present and may see or hear an act of domestic violence. The bill
20 would additionally require that the child be 16 years of age or
21 younger.

22 The crime of committing an act of domestic violence in the
23 presence of a child would be a crime of the fourth degree if the
24 underlying offense is a disorderly persons offense or petty
25 disorderly persons offense; otherwise, it would be graded one
26 degree higher than the most serious underlying offense. If the
27 offender is convicted of both the underlying offense and committing
28 an act of domestic violence in the presence of a child, the
29 convictions would not merge and a court would be required to
30 impose a separate sentence for each conviction.

31 A crime of the fourth degree is punishable by imprisonment for
32 up to 18 months, up to a \$10,000 fine, or both. A crime of the third
33 degree is punishable by imprisonment for three to five years, up to a
34 \$15,000 fine, or both. A crime of the second degree is punishable
35 by imprisonment for five to 10 years, up to a \$150,000 fine, or both.
36 A crime of the first degree is punishable by imprisonment for 10 to
37 20 years, up to a \$200,000 fine, or both.