



State Statutes Series 2004

Children and Domestic Violence: Summary of State Laws

Defining Domestic Violence

In recent years, increased attention has been focused on children who may be impacted by violence in the home, either as direct victims or as witnesses to domestic violence. Although mandatory reporting laws have been the primary means for protecting abused and neglected children, many States now provide additional protection for children in their domestic violence laws.

Domestic violence can be defined generally as “a pattern of assaultive and/or coercive behaviors, including physical, sexual, and emotional abuse, as well as economic coercion, that adults use against their intimate partners to gain power and control in that relationship.”¹ All jurisdictions in the United States have laws that define domestic or family violence. In some States, domestic violence is defined broadly with terms such as “abuse,” “harassment,” “threats of harm,” or “intimidation.” In other States, the definition can include more specific behaviors such as burglary, criminal trespass, arson, sexual assault, or violation of a protective order. The persons protected by domestic violence laws can include spouses or former spouses, persons who live or have lived together or have a dating relationship, or other family or household members.

Approximately² 40 States,³ the District of Columbia, and the U.S. Territories Guam, Northern Mariana Islands, and Puerto Rico include children as a class of protected persons in some way within their definitions of domestic violence. Most commonly, a child who is a member of the household or a child of either adult in the relationship is protected by the law. Five States (Arizona, Hawaii, Ohio, Utah, and Vermont) include child abuse in their definition of domestic violence. Four States (Arizona, North Carolina, Virginia, and Washington) specifically include grandchildren as protected persons, and three States (Georgia, Louisiana, and Texas) include foster children.

¹Susan Schecter and Jeffrey Edleson, *Effective Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice* (Reno, NV: National Council of Juvenile and Family Court Judges, 1999), 9.

²The word *approximately* is used to stress the fact that the States frequently amend their laws, so this information is current only through March 2004.

³Colorado, Iowa, Kansas, Massachusetts, New Hampshire, New Jersey, Oregon, South Carolina, Wisconsin, and Wyoming do not currently include children in their definitions of domestic violence.



Exceptions

A small number of States provide exceptions for certain acts in their definitions of domestic violence. The most common exception, in seven States⁴ and Guam, is for acts of self-defense. Guam also exempts defense of others, and Delaware and Louisiana exempt acts committed in defense of a child. Three States (Georgia, Illinois, and Maryland) provide an exception for reasonable acts of discipline of a child. Verbal abuse or argument is exempted by Connecticut.

Child Witnesses to Domestic Violence

Research shows that even when children are not the direct targets of violence in the home, they can be harmed by witnessing the occurrence of such violence.⁵ The witnessing of domestic violence can be auditory, visual, or inferred, including cases in which the child witnesses the aftermath of violence, such as cuts, bruises, or broken limbs. Children who witness domestic violence can suffer severe emotional and developmental difficulties similar to children who are the direct victims of abuse.⁶ The legal system is beginning to recognize the need to protect and care for these children. Approximately 20 States⁷ and Puerto Rico have enacted legislation that specifically includes children who witness domestic violence as a class of persons in need of legal protection.

A child is a witness to domestic violence when an act that is defined as domestic violence is committed in the presence of or witnessed by the child. In some States, the definition goes no further than that. In other States,⁸ the definition is more specific, stating that witnessing by a child occurs when the offender commits the violence “in the physical presence of the child or knowing that the child is present and can see or hear” the act of violence. Washington uses the language “within sight or sound of victim’s or offender’s children.” Ohio law states that witnessing occurs when the domestic violence is committed “in the vicinity of a child,” meaning within 30 feet or within the same residential unit occupied by the child, regardless of whether the child is actually present or can actually see the commission of the offense. Minnesota includes chronic and severe use of alcohol or a controlled substance by a parent as part of the definition of “exposed to domestic violence.”

Legal Responses

In many States, a conviction of domestic violence committed in the presence of a child may result in harsher penalties. Thus, when the presence of a child during domestic violence is considered to be “aggravating circumstances,” sentencing guidelines in most States mandate that such aggravating circumstances result in a harsher criminal penalty, such as a longer jail or prison term or an increased fine. Approximately eight States⁹ include committing an act of domestic violence in the presence

⁴Delaware, Indiana, Louisiana, Michigan, North Carolina, North Dakota, and Texas provide this exception.

⁵For additional information about the impact of domestic violence on children, see the Clearinghouse publication, *Children and Domestic Violence: A Bulletin for Professionals*, at <http://nccanch.acf.hhs.gov/pubs/factsheets/domesticviolence.cfm>.

⁶Schechter and Edelson, p. 10.

⁷Alaska, Arizona, Arkansas, California, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Minnesota, Mississippi, Montana, North Carolina, Ohio, Oklahoma, Oregon, Utah, and Washington.

⁸Alaska, Arizona, Arkansas, California, Florida, Georgia, Hawaii, Idaho, Illinois, Mississippi, Oklahoma, Oregon, and Utah.

⁹Alaska, Arizona, California, Hawaii, Mississippi, Montana, Ohio, and Washington.

of a child as an aggravating circumstance. An additional seven States¹⁰ and Puerto Rico provide for enhanced penalties when domestic violence is committed in the presence of a child.

Illinois and Nevada both require perpetrators of domestic violence to pay for any counseling that a child victim may require. In Delaware, committing domestic violence in the presence of a child is considered an act of child endangerment. In Georgia, it is considered cruelty to children. Indiana requires a noncustodial parent who is convicted of domestic violence in the presence of a child to have visitation with the child supervised for at least 1 year and not more than 2 years following the act of domestic violence.

This publication is a product of the State Statutes Series prepared by the National Clearinghouse on Child Abuse and Neglect Information. 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.

Electronic copies of this publication may be downloaded from the Clearinghouse website at <http://nccanch.acf.hhs.gov/general/legal/statutes/domviol.cfm>.

- To find statute information for a particular State, go to <http://nccanch.acf.hhs.gov/general/legal/statutes/search> and select the specific State and topic.
- To find information on all the States and Territories, view the complete PDF at <http://nccanch.acf.hhs.gov/general/legal/statutes/domviolall.pdf> or call the Clearinghouse at (800) 394-3366 or (703) 385-7565 to order a copy.

¹⁰Arkansas, Florida, Idaho (where penalties are doubled), North Carolina, Oklahoma, Oregon, and Utah.

Alabama**Definitions****Domestic Violence Defined****Statute: § 15-10-3**

'Domestic violence' includes any incident resulting in the abuse, assault, harassment, or the attempts or threats thereof

Persons Included in Definition**Statute: § 15-10-3**

'Family, household, or dating or engagement member' including:

- Spouse or former spouse
- Parent
- Child
- Any person related by marriage or common-law marriage
- A person with whom the victim has a child in common
- Present or former household member
- A person who has or had a dating relationship

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Alaska**Definitions****Domestic Violence Defined****Statute: § 18.66.990**

'Domestic violence' or 'crime involving domestic violence' can include:

- A crime against the person
- Burglary
- Criminal trespass
- Arson or criminally negligent burning
- Terroristic threatening
- Violating a protective order
- Harassment

Persons Included in Definition**Statute: § 18.66.990**

'Household member' including adults or minors who:

- Are current or former spouses
- Live together or have lived together
- Are engaged or have engaged in a sexual relationship
- Are related to the 4th degree
- Are related or formerly related by marriage
- Have a child of the relationship
- Are the minor children of any relationship

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing****Statute: §§ 12.55.125; 47.10.011**

- Domestic violence committed in the physical presence or hearing of a child under 16 years of age, living within the residence of the victim or perpetrator, or where the violence occurred
- Placing the child at substantial risk of mental injury as a result of exposure to acts of violence by one household member on another household member

Penalties**Statute: § 12.55.125**

Commission of the crime of domestic violence in the presence of a child is considered an aggravating factor for sentencing purposes.

American Samoa**Definitions****Domestic Violence Defined**

Not addressed in statutes reviewed

Persons Included in Definition

Not addressed in statutes reviewed

Exceptions

Not addressed in statutes reviewed

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Arizona**Definitions****Domestic Violence Defined****Statute: § 13-3601**

'Domestic violence' includes:

- Any act that is a dangerous crime against children
- Endangerment
- Threatening or intimidating act
- Assault
- Custodial interference
- Unlawful imprisonment or kidnapping
- Criminal trespass
- Harassment or stalking
- Child or vulnerable adult abuse

Persons Included in Definition**Statute: § 13-3601**

- Spouse or former spouse
- Persons residing or having resided in the same household
- Persons having a child in common
- A party who is pregnant by the other party
- Parent, grandparent, grandchild, stepchild, brother, or sister
- A child who resides or has resided in the same household

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing****Statute: § 13-702**

An offense committed in the presence of a child under any of the circumstances defined as domestic violence

Penalties**Statute: § 13-702**Considered an aggravating circumstance that may result in an increased sentence for a felony conviction

Arkansas**Definitions****Domestic Violence Defined****Statute: § 9-15-103**

'Domestic abuse' means:

- Physical harm, bodily injury, assault, or the infliction of fear of imminent harm
- Any sexual conduct between family or household members, whether minors or adults, that constitutes a crime

Persons Included in Definition**Statute: § 9-15-103**

'Family or household members':

- Spouses or former spouses
- Parents and children
- Persons related by blood within the 4th degree
- Any children residing in the household
- Persons who reside or have resided or cohabited together
- Persons who have a child in common

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing****Statute: § 5-4-701**

'In the presence of a child' means:

- In the physical presence
- Knowing or having reason to know that a child is present and may see or hear an act of domestic abuse

Penalties**Statute: § 5-4-702**

- May be subject to an enhanced sentence of an additional term of imprisonment of not less than 1 year and not greater than 10 years
 - The enhanced portion is consecutive to any other sentence
 - Person not eligible for parole on enhanced sentence
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California**Definitions****Domestic Violence Defined****Statute: Fam. Code § 6203**

- Intentionally or recklessly causing or attempting to cause bodily injury
- Sexual assault
- Placing a person in reasonable apprehension of imminent serious bodily injury

Persons Included in Definition**Statute: Fam. Code § 6211**

- Spouse or former spouse
- Cohabitant or former cohabitant
- Persons who have or have had a dating or engagement relationship
- Persons who have a child together
- A child of either person
- Any other person related within the 2nd degree

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing****Statute: Penal Code § 1170.76**

When an offense is committed by a member of the household of a minor, or by a marital or blood relative of the minor, and the offense occurred in the presence of, or was witnessed by, the minor

Penalties**Statute: Penal Code § 1170.76**

Such circumstances shall be considered an aggravation when imposing a sentence.

Colorado**Definitions****Domestic Violence Defined**

Children not addressed in statutes reviewed

Persons Included in Definition

Children not addressed in statutes reviewed

Exceptions

Not addressed in statutes reviewed

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Connecticut**Definitions****Domestic Violence Defined****Statute: § 46b-38a**

'Family violence':

- An incident resulting in physical harm, bodily injury, or assault
- An act of threatened violence that constitutes fear of imminent harm

Persons Included in Definition**Statute: § 46b-38a**

'Family or household members':

- Spouses or former spouses
- Parents and their children
- Persons 18 years or older related by blood or marriage
- Persons 16 years or older living together or in a dating relationship
- Persons with a child in common

Exceptions**Statute: § 46b-38a**

Verbal abuse or argument does not constitute family violence unless there is present danger and the likelihood that physical violence will occur.

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

PenaltiesNot addressed in statutes reviewed

Delaware**Definitions****Domestic Violence Defined****Statute: Tit. 13, § 703A**

'Domestic violence':

- Physical or sexual abuse
- Threats of physical or sexual abuse
- Any other offense against the person

Persons Included in Definition**Statute: Tit. 13, § 703A**

- One parent against the other parent
- Any child living in either parent's home
- Any other adult living in the child's home

Exceptions**Statute: Tit. 13, § 703A**

Reasonable acts of self-defense by one parent for self-defense or in order to protect the child from abuse or threats of abuse

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing****Statute: Tit. 11, § 1102**

A felony assault witnessed by a child less than 18 years of age who is a member of the person's or victim's family

Penalties**Statute: Tit. 11, § 1102**

Constitutes endangering the welfare of a child, a class A misdemeanor

District of Columbia**Definitions****Domestic Violence Defined****Statute: § 16-1001**

'Intrafamily offense' means an act punishable as a criminal offense committed against a family member.

Persons Included in Definition**Statute: § 16-1001**

'Family member':

- A person related to the offender by blood, legal custody, marriage, or having a child in common, or someone who shares a mutual residence
- A person with whom the offender has or has had a romantic relationship

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Florida**Definitions****Domestic Violence Defined****Statute: § 741.28**

'Domestic violence':

- Assault or battery
- Sexual assault or battery
- Stalking
- Kidnapping
- False imprisonment
- Any criminal offense resulting in physical injury or death

Persons Included in Definition**Statute: § 741.28**

'Family or household member':

- Spouse or former spouse
- Persons related by blood or marriage
- Persons presently residing together or who have resided together
- Persons with a child common

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing****Statute: § 921.0024**

In the presence of a child who is under 16 years of age who is a family household member

Penalties**Statute: § 921.0024**

The total sentence for the offense may be multiplied by a factor of 1.5

Georgia**Definitions****Domestic Violence Defined****Statute: § 19-13-1**

'Family violence':

- Battery
- Assault
- Stalking
- Criminal damage to property
- Unlawful restraint
- Criminal trespass

Persons Included in Definition**Statute: § 19-13-1**

- Past or present spouses
- Persons who are parents of the same child
- Parents and children
- Stepparents and stepchildren
- Foster parents and foster children
- Other persons living or formerly living in the same household

Exceptions**Statute: § 19-13-1**

Reasonable discipline administered by a parent to a child

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing****Statute: § 16-5-70**

- Intentionally allowing a child under age 18 to witness an act of family violence
- Having knowledge that a child under age 18 is present and sees and hears the act of family violence

Penalties**Statute: § 16-5-70**

- Constitutes an act of cruelty to children in the 3rd degree
- First or second conviction punished as a misdemeanor
- Third or subsequent conviction punished as a felony by a fine of not less than \$1,000 nor more than \$5,000, or imprisonment of not less than 1 year nor more than 3 years, or both

Guam**Definitions****Domestic Violence Defined****Statute: Tit. 9, § 30.10**

'Family violence':

- Attempting to cause or causing bodily injury to another household member
- Placing a household member in fear of bodily injury

Persons Included in Definition**Statute: Tit. 9, § 30.10**

'Family or household members' including adults or minors who:

- Are current or former spouses
- Live together or have lived together
- Are dating or have dated
- Are engaged or have engaged in a sexual relationship
- Are related by marriage
- Have a child in common
- Are the minor children of a person in any of the above relationships

Exceptions**Statute: Tit. 9, § 30.10**

Does not include acts of self-defense or defense of others

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

PenaltiesNot addressed in statutes reviewed

Hawaii**Definitions****Domestic Violence Defined****Statute: § 586-1**

'Domestic abuse':

- Physical harm, bodily injury, assault, or threat of imminent harm or injury
- Extreme psychological abuse or malicious property damage
- Abuse of family members, sexual abuse, or child abuse

Persons Included in Definition**Statute: § 586-1**

'Family or household member':

- Current or former spouse or reciprocal beneficiary
- Persons with a child in common
- Parents or children
- Persons residing or formerly residing in the same dwelling
- Persons who have or formerly had a dating relationship

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing****Statute: § 706-606.4**

'In the presence of a minor':

- In the actual presence of a minor
- Knowing that a child is present and may see or hear the offense

Penalties**Statute: § 706-606.4**Considered an aggravating factor when determining the sentence to be imposed

Idaho**Definitions****Domestic Violence Defined****Statute: § 39-6303**

'Domestic violence':

- Physical injury
- Sexual abuse
- Forced imprisonment
- The threat thereof

Persons Included in Definition**Statute: § 39-6303**

- Family member: Spouse or former spouse or person related by blood, marriage, or adoption
- Household members: Persons who reside together or have resided together or have a child in common
- Adult or minor child by a person with whom there is a dating relationship

ExceptionsNone specified in statute

Child Witnesses to Domestic Violence

Circumstances That Constitute Witnessing

Statute: § 18-918

'In the presence of a child':

- The physical presence of the child
- Knowing that a child is present and may see or hear an act of domestic violence

Penalties

Statute: § 18-918

The maximum penalty for an offense shall be doubled when committed in the presence of a child.

Illinois

Definitions

Domestic Violence Defined

Statute: Ch. 750, § 60/103; Ch. 720, § 5/12-3.2

'Domestic violence':

- Physical abuse
- Harassment
- Intimidation of a dependent
- Interference with personal liberty
- Willful deprivation

'Domestic battery':

- Causes bodily harm
- Makes physical contact of an insulting or provoking nature

Persons Included in Definition

Statute: Ch. 750, § 60/103

'Family or household members':

- Spouses or former spouses
- Parents, children, stepchildren
- Persons who share or have shared a common dwelling
- Persons who have a child in common
- Persons who have or had a dating or engagement relationship
- Persons with disabilities and their personal assistants

Exceptions

Statute: Ch. 750, § 60/103

Does not include reasonable direction of a minor by a parent or person *in loco parentis*

Child Witnesses to Domestic Violence

Circumstances That Constitute Witnessing**Statute: Ch. 720, § 5/12-3.2**

'In the presence of a child':

- Physical presence of a child
- Knowing or having reason to know that a child is present and may see or hear an act of domestic battery

Penalties**Statute: Ch. 720, § 5/12-3.2**

- Required to serve a mandatory minimum term of imprisonment of 10 days or 300 hours of community service or both
- Liable for the cost of any counseling required by the child at the discretion of the court

Indiana**Definitions****Domestic Violence Defined****Statute: § 31-9-2-42**

'Domestic or family violence':

- Attempting to cause, threatening to cause, or causing physical harm without legal justification
- Placing a family member in fear of physical harm
- Causing a family member to involuntarily engage in sexual activity by force, threat of force, or duress
- Stalking
- A sex offense

Persons Included in Definition**Statute: § 31-9-2-44.5**

'Family or household member' means a person who is:

- A current or former spouse of the person
- A person who is dating or has dated the other person
- A person who is or has engaged in a sexual relationship with the other person
- A person who is related by blood or adoption to the other person
- A person who is or was related by marriage to the other person
- A person who has or previously had an established legal relationship to the other person such as guardian, ward, custodian, or foster parent
- A person who has a child in common with the other person
- A minor child of any of the above

Exceptions**Statute: § 31-9-2-42**

Does not include acts of self-defense

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing****Statute: § 31-14-14-5**

Acts of domestic violence that were witnessed or heard by a noncustodial parent's child

Penalties**Statute: § 31-14-14-5**

Creates a rebuttable presumption that the noncustodial parent's visitation with the child must be supervised:

- For at least 1 year and not more than 2 years immediately following the act of domestic violence
 - Until the child becomes emancipated, whichever occurs first
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Iowa**Definitions****Domestic Violence Defined**

Children not addressed in statutes reviewed

Persons Included in Definition

Children not addressed in statutes reviewed

Exceptions

Not addressed in statutes reviewed

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Kansas**Definitions****Domestic Violence Defined**

Children not addressed in statutes reviewed

Persons Included in Definition

Children not addressed in statutes reviewed

Exceptions

Not addressed in statutes reviewed

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Kentucky**Definitions****Domestic Violence Defined****Statute: § 403.720**

'Domestic violence and abuse':

- Physical injury or serious physical injury
- Sexual abuse
- Assault
- Infliction of fear of imminent physical injury

Persons Included in Definition**Statute: § 403.720**

- Family member, which can include a spouse or former spouse, a parent, a child or stepchild, or any other person related within the 2nd degree
- Member of an unmarried couple, or any children of that couple

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Louisiana**Definitions****Domestic Violence Defined****Statute: Rev. Stat. § 9:362; Ch. Code art. 1565**

- 'Family violence' includes physical or sexual abuse and any offense against the person.
- 'Domestic abuse' includes, but is not limited to, physical or sexual abuse and any offense against the person except negligent injury and defamation.

Persons Included in Definition**Statute: Ch. Code art. 1565**

'Family or household member':

- Spouse or former spouse
- Parent or stepparent
- Child or stepchild
- Foster parent or foster child
- Any person living in the same residence with the defendant as a spouse, whether married or not, if a child or children are also present

Exceptions**Statute: Rev. Stat. § 9:362**

Does not include reasonable acts of self-defense utilized by one parent to protect himself or herself or a child in the family from the family violence of the other parent

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Maine**Definitions****Domestic Violence Defined****Statute: Tit. 19-A, § 4002**

'Abuse':

- Causing or attempting to cause bodily injury or offensive physical contact, including sexual assault
- Placing another in fear of bodily injury
- Compelling a person to engage in conduct from which he or she has the right to abstain, or to abstain from conduct in which the person has the right to engage
- Knowingly restricting the movements of a person without that person's consent

Persons Included in Definition**Statute: Tit. 19-A, § 4002**

'Family or household members':

- Spouses or former spouses
- Persons living or formerly living together as spouses
- Parents of the same child
- Minor children of a household member
- Persons who are or were sexual partners

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Maryland**Definitions****Domestic Violence Defined**

Statute: Fam. Law §§ 4-501; 4-513

'Abuse':

- An act that causes serious bodily harm or places a person in fear of bodily harm
- Assault in any degree
- Rape or sexual offense
- False imprisonment

'Victim of domestic violence' means an individual who:

- Has received a deliberate, severe physical injury
- Is in fear of imminent injury

Persons Included in Definition

Statute: Fam. Law §§ 4-501; 4-513

- Current or former spouse
- Current or former cohabitant
- A child

Exceptions

Statute: Fam. Law § 4-501

Does not include reasonable punishment, including corporal punishment, in light of the age and condition of the child, from being performed by a parent or stepparent of the child

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Massachusetts**Definitions****Domestic Violence Defined**

Children not addressed in statutes reviewed

Persons Included in Definition

Children not addressed in statutes reviewed

Exceptions

Not addressed in statutes reviewed

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Michigan**Definitions****Domestic Violence Defined****Statute: § 400.1501**

'Domestic violence':

- Causing or attempting to cause physical or mental harm
- Placing another in fear of harm
- Causing or attempting to cause another to engage involuntarily engage in sexual activity by force, threat of force, or duress
- Giving a reasonable person cause to feel terrorized, intimidated, threatened, harassed, or molested

Persons Included in Definition**Statute: § 400.1501**

'Family or household member':

- Spouse or former spouse
- Persons who reside or have resided together
- Persons who have or have had a dating relationship, or have engaged in a sexual relationship
- Persons related or formerly related by marriage
- Persons who have a child in common
- A child of any of the above persons

Exceptions**Statute: § 400.1501**

Does not include an act of self-defense

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Minnesota**Definitions****Domestic Violence Defined**

Statute: § 518B.01, Subd. 2

'Domestic abuse':

- Physical harm, bodily injury, or assault
- Infliction of fear of harm or bodily injury
- Terroristic threats, criminal sexual conduct, or interference with an emergency call

Persons Included in Definition

Statute: § 518B.01, Subd. 2

'Family or household member':

- Spouse or former spouses
- Parents and children
- Persons related by blood
- Persons who reside or have resided together
- Persons who have a child in common
- A man and a woman, if the woman is pregnant and the man is alleged to be the father
- Persons in a romantic or sexual relationship

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Statute: § 626.5552

A child is considered to have been exposed to domestic violence when:

- A parent engages in violent behavior that endangers the child's physical or mental health
- A parent engages in repeated domestic assault
- The child has witnessed repeated incidents of domestic violence
- A parent engages in chronic and severe use of alcohol or a controlled substance

Penalties

None specified in statute

Mississippi**Definitions****Domestic Violence Defined****Statute: § 93-21-3**

'Abuse':

- Attempting to cause or intentionally, knowingly, or recklessly causing bodily injury, with or without a deadly weapon
- Placing, by physical menace or threat, another in fear of imminent serious bodily injury
- Criminal sexual conduct committed against a minor

Persons Included in Definition**Statute: § 93-21-3**

'Family or household member':

- Spouse or former spouses
- Persons living as spouses
- Parents and children
- Other persons related by consanguinity or affinity
- Persons who have a current dating relationship

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing****Statute: § 97-3-7**

In the physical presence or hearing of a child under 16 years of age who was living in the residence of the victim or the perpetrator, or where the offense occurred

Penalties**Statute: § 97-3-7**Considered an aggravating factor when determining the sentence to be imposed

Missouri**Definitions****Domestic Violence Defined****Statute: § 455.200**

'Domestic violence':

- Causing or attempting to cause bodily injury
- Placing another by threat of force in fear of imminent physical harm

Persons Included in Definition**Statute: § 455.200**

'Family or household member':

- Spouse or former spouse
- Persons living together
- Parent
- Other related adult who is residing or has resided with the person committing the violence
- Dependents of such persons

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

PenaltiesNot addressed in statutes reviewed

Montana**Definitions****Domestic Violence Defined****Statute: § 45-5-206**

'Partner or family member assault':

- Purposely or knowingly causing bodily injury
- Negligently causing bodily injury with a weapon
- Purposely or knowingly causing reasonable apprehension of bodily injury

Persons Included in Definition**Statute: § 45-5-206**

- Family members: Mothers, fathers, brothers, sisters, and other past and present family members of a household
- Includes relationships created by adoption and remarriage
- Partners: Spouses, former spouses, persons who have a child in common, persons who have been or are currently in a dating relationship with the opposite sex

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing****Statute: § 45-5-206**Committed within the vision or hearing of a minor

Penalties**Statute: § 45-5-206**

The judge shall consider the presence of the minor as a factor at the time of sentencing.

Nebraska**Definitions****Domestic Violence Defined****Statute: § 42-903**

'Abuse':

- Attempting to cause or intentionally, knowingly, or recklessly causing bodily injury, with or without a deadly weapon
- Placing, by physical menace, another in fear of imminent bodily injury

Persons Included in Definition**Statute: § 42-903**

'Family or household member':

- Spouses or former spouses
- Children
- Persons who are residing or have resided together
- Persons who have a child in common

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Nevada**Definitions****Domestic Violence Defined****Statute: § 33.018**

'Domestic violence':

- Assault or battery
- Compelling another to perform an act from which he or she has the right to refrain
- Sexual assault
- Conduct intended to harass, such as stalking, arson, trespassing, larceny, destruction of property, or carrying a concealed weapon without a permit
- False imprisonment
- Unlawful entry of another's residence

Persons Included in Definition**Statute: § 33.018**

- Spouse or former spouse
- Any other person related by blood or marriage
- A person with whom one resides or has resided
- Persons in a current or previous dating relationship
- Persons with a child in common
- The minor child of any such person

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties**Statute: § 200.485**

If it appears that a child under age 18 years may need counseling at a result of domestic violence, the person convicted of the domestic violence shall be required to reimburse the agency for the cost of any services provided.

New Hampshire**Definitions****Domestic Violence Defined**

Children not addressed in statutes reviewed

Persons Included in Definition

Children not addressed in statutes reviewed

Exceptions

Not addressed in statutes reviewed

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

New Jersey**Definitions****Domestic Violence Defined**

Children not addressed in statutes reviewed

Persons Included in Definition

Children not addressed in statutes reviewed

Exceptions

Not addressed in statutes reviewed

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

New Mexico**Definitions****Domestic Violence Defined****Statute: § 40-13-2**

'Domestic abuse' is any incident resulting in:

- Physical harm or severe emotional distress
- Bodily injury or assault
- Threat causing imminent fear of bodily injury
- Criminal trespass or damage to property
- Harassment or stalking
- Harm or threatened harm to children

Persons Included in Definition**Statute: § 40-13-2**

'Household member':

- Spouse or former spouse
- Family member
- Parent, present or former stepparent
- Present or former in-law
- Child or co-parent of a child
- Persons having a continuing personal relationship

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

PenaltiesNot addressed in statutes reviewed

New York**Definitions****Domestic Violence Defined****Statute: Soc. Serv. Law § 459-a**

'Domestic violence' refers to acts committed by a family or household member:

- Disorderly conduct
- Harassment or menacing conduct
- Reckless endangerment
- Kidnapping
- Assault or attempted assault
- Attempted murder
- Such acts that cause actual physical or emotional injury or substantial risk of injury

Persons Included in Definition**Statute: Soc. Serv. Law § 459-a**

'Victim': Any person over age 16, any married person or parent, or a child of such person

'Family or household members':

- Persons related by consanguinity or affinity
- Persons married or formerly married to each other
- Persons who have a child in common
- Unrelated persons who live or have lived in the same household

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

North Carolina**Definitions****Domestic Violence Defined****Statute: § 50B-1**

'Domestic violence' refers to acts against a party or that party's minor child:

- Attempting to cause or intentionally causing bodily injury
- Placing a party in fear of imminent serious bodily injury or continued harassment
- Committing rape or another sex offense

Persons Included in Definition**Statute: § 50B-1**

'Personal relationship':

- Current or former spouse
- Persons of the opposite sex who live or have lived together
- Parents and children; grandparents and grandchildren
- Persons who have a child in common
- Current or former household members
- Persons of the opposite sex who are or have been in a dating relationship

Exceptions**Statute: § 50B-1**

Does not include acts of self-defense

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing****Statute: § 14-33(d)**

'In the presence of a minor' means that the minor was in a position to have observed the assault.

Penalties**Statute: § 14-33(d)**

A person who, in the course of an assault, inflicts serious injury on someone with whom the person has a personal relationship, and in the presence of a minor:

- Shall be placed on supervised probation in addition to any other punishment
 - On a second or subsequent violation, shall be sentenced to an active punishment of no less than 30 days in addition to any other punishment
-

North Dakota**Definitions****Domestic Violence Defined****Statute: § 14-07.1-01**

'Domestic violence':

- Physical harm
- Bodily injury
- Sexual activity compelled by physical force
- Assault
- Infliction of fear of imminent physical harm

Persons Included in Definition**Statute: § 14-07.1-01**

'Family or household member':

- Spouse or former spouse
- Parent
- Child
- Persons related by blood or marriage
- Persons who are in a dating relationship
- Persons who are residing or have resided together
- Persons who have a child in common
- Any other person who has a sufficient relationship to the abusing person as determined by the court

Exceptions**Statute: § 14-07.1-01**

Does not include acts committed in self-defense

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Northern Mariana Islands**Definitions****Domestic Violence Defined****Statute: Tit. 8, Ch. 9, § 102**

'Domestic or family violence':

- Attempting to cause or causing bodily injury
- Infliction of fear of bodily injury
- Attempting to cause or causing a family member to engage in coerced or forced sexual activity
- Harassment

Persons Included in Definition**Statute: Tit. 8, Ch. 9, § 102**

'Family or household members' include:

- Current or former spouses
- Persons who live together or have recently lived together
- Persons who are dating
- Persons who are engaged in or have recently engaged in a sexual relationship
- Persons who are related by blood or adoption
- Persons who are related or formerly related by marriage
- Persons who have a child in common
- Minor children of a person in a relationship described above

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

PenaltiesNot addressed in statutes reviewed

Ohio**Definitions****Domestic Violence Defined****Statute: § 3113.31**

'Domestic violence':

- Attempting to cause or recklessly causing bodily injury
- Placing another in fear of imminent serious physical harm
- Menacing by stalking
- Aggravated trespass
- Abusing a child

Persons Included in Definition**Statute: § 3113.31**

'Family or household member':

- Spouse or former spouse
- Person living as a spouse
- Parent or child
- Other person related by consanguinity or affinity

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing****Statute: § 2929.01**

'Committed in the vicinity of a child' means being within 30 feet of or within the same residential unit as a child under 18 years of age:

- Regardless of whether the offender knows the age of the child, or whether the child is within 30 feet or within the same residential unit
- Regardless of whether the child actually views the commission of the offense

Penalties**Statute: §§ 2929.12; 2929.17**

- Constitutes a factor that a court may consider at its discretion when imposing a sentence for a felony
 - May have a nonresidential sanction (such as house arrest) in addition to any mandatory term of incarceration
 - Requires that the offender obtain counseling
-

Oklahoma**Definitions****Domestic Violence Defined****Statute: Tit. 21, § 644**

'Domestic abuse': Assault and battery against a family member

Persons Included in Definition**Statute: Tit. 21, § 644**

- Spouse or former spouse
 - Parents or foster parents
 - Child
 - Person related by blood or marriage
 - Persons in a dating relationship
 - Persons who have a child in common
 - Persons living or formerly living in the same household
-

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing
Statute: Tit. 21, § 644**

'In the presence of a child':

- In the physical presence of a child
- Having knowledge that a child is present and may see or hear an act of domestic violence

Penalties**Statute: Tit. 21, § 644**

- First conviction: Sentence of imprisonment of not less than 6 months
 - Second and subsequent convictions: Sentence of imprisonment of not less than 1 year
-

Oregon**Definitions****Domestic Violence Defined**

Children not addressed in statutes reviewed

Persons Included in Definition

Children not addressed in statutes reviewed

Exceptions

Not addressed in statutes reviewed

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing
Statute: § 163.160**

- Committed in the immediate presence of, or witnessed by, the person's or victim's minor child or stepchild, or minor child residing in the household
- An assault seen or directly perceived in any manner

Penalties**Statute: § 163.160**

Upgrades the offense from a Class A misdemeanor to a Class C felony

Pennsylvania**Definitions****Domestic Violence Defined****Statute: Ch. 23, § 6102**

'Abuse':

- Attempting to cause or intentionally, knowingly, or recklessly causing bodily injury
- Placing another in fear of imminent bodily injury
- False imprisonment
- Physically or sexually abusing children

Persons Included in Definition**Statute: Ch. 23, § 6102**

'Family or household member':

- Spouse or former spouse
- Persons living as spouses
- Parents and children
- Other related persons
- Current or former sexual or intimate partners
- Persons who share biological parenthood

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

PenaltiesNot addressed in statutes reviewed

Puerto Rico**Definitions****Domestic Violence Defined****Statute: Tit. 8, §§ 441; 602**

'Domestic abuse' refers to a constant pattern of conduct involving:

- Physical force or psychological violence
- Intimidation or persecution
- Physical harm to self, property, or another person
- Grave emotional harm
- Emotional harm inflicted by witnessing acts of domestic violence

Persons Included in Definition**Statute: Tit. 8, §§ 441; 602**

- Spouse or former spouse
- Persons who are or have cohabited or those who have or had a consensual relationship
- Persons who have a child in common
- Minor child

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing****Statute: Tit. 8, §§ 441; 602**

- 'Abuse' includes emotional harm inflicted by witnessing acts of domestic violence.
- Acts of abuse are considered 'aggravated':
 - When committed in the presence of minors
 - When child abuse is committed and simultaneously incurred

Penalties**Statute: Tit. 8, §§ 443q; 602**

- Such an act of abuse incurs a fixed term of imprisonment of 5 years, a fine not to exceed \$3,000, or both.
- A pattern of abuse incurs a fixed term of imprisonment of 10 years and a fine not to exceed \$5,000, or both.
- Aggravated abuse shall incur a fixed term of 3 years.

Rhode Island**Definitions****Domestic Violence Defined****Statute: § 15-15-1**

'Domestic abuse':

- Attempting to cause or causing physical harm
- Placing another in fear of imminent serious physical harm
- Causing another to engage involuntarily in sexual relations by force, threat, or duress

Persons Included in Definition**Statute: § 15-15-1**

- Present or former family member: Spouse, minor children, stepchildren, or persons related by blood or marriage
- Parents or stepparents
- Persons who are or have been in a dating or engagement relationship in which at least one person is a minor

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

South Carolina**Definitions****Domestic Violence Defined**

Children not addressed in statutes reviewed

Persons Included in Definition

Children not addressed in statutes reviewed

Exceptions

Not addressed in statutes reviewed

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

South Dakota**Definitions****Domestic Violence Defined****Statute: § 25-10-1**

'Domestic abuse':

- Physical harm
- Bodily injury
- Attempts to cause physical harm or bodily injury
- Infliction of fear of imminent physical harm or bodily injury

Persons Included in Definition**Statute: § 25-10-1**

'Family or household member':

- Spouse or former spouse
- Persons related by consanguinity, adoption, or law
- Persons living in the same household
- Persons who have lived together
- Persons with a child in common

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Tennessee**Definitions****Domestic Violence Defined****Statute: § 36-3-601**

'Domestic abuse':

- Inflicting or attempting to inflict physical injury by other than accidental means
- Placing another in fear of physical harm
- Physical restraint
- Malicious damage to personal property

Persons Included in Definition**Statute: § 36-3-601**

'Victim' refers to adults or minors who are:

- Current or former spouses
- Living together or have lived together
- Dating, have dated, or who have or had a sexual relationship
- Related by blood or adoption
- Related or formerly related by marriage
- Children of a person above

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Texas**Definitions****Domestic Violence Defined**

Statute: Fam. Code § 71.004

'Family violence':

- An act intended to result in physical harm or bodily injury
- Assault or sexual assault
- An act that is a threat or places another in fear of imminent physical harm
- Abuse, as defined by § 261.001, toward a child of the family
- Dating violence

Persons Included in Definition

Statute: Fam. Code § 71.003

'Family' includes:

- Individuals related by consanguinity or affinity
- Spouse or former spouse
- Persons with a child in common
- A foster child or foster parent

Exceptions

Statute: Fam. Code § 71.004

Does not include defensive measures to protect oneself

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Utah**Definitions****Domestic Violence Defined****Statute: § 77-36-1**

'Domestic violence' includes:

- Physical harm or threat of physical harm
- Assault
- Criminal homicide
- Harassment
- Kidnapping or child kidnapping
- Mayhem
- A sexual offense
- Stalking
- Unlawful detention
- Violation of a protective order
- Any offense against property
- Child abuse as defined in § 76-5-109.1

Persons Included in Definition**Statute: § 30-6-1**

'Cohabitant': A person age 16 or older who:

- Is or was a spouse of the other person
- Is or was living as a spouse of the other person
- Is related by blood or marriage to the other person
- Has one or more children in common with the other person
- Is the biological parent of the other person's unborn child
- Resides or has resided in the same residence

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing****Statute: § 76-5-109.1**

'In the presence of a child':

- In the physical presence of a child
- Having knowledge that a child is present and may see or hear an act of domestic violence

Penalties**Statute: § 76-5-109.1**

- A person is guilty of child abuse if that person commits an act of domestic violence in the presence of a child.
- A charge under this section is separate and distinct and in addition to any other charges that may be filed.

Vermont**Definitions****Domestic Violence Defined****Statute: Tit. 15, § 1101**

'Abuse':

- Attempting to cause or causing physical harm
- Placing another in fear of imminent physical harm
- Abuse to children

Persons Included in Definition**Statute: Tit. 15, § 1101**

- Family
- Household members: Persons who are living or have lived together, or who are in or have been in a sexual or dating relationship

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

PenaltiesNot addressed in statutes reviewed

Virgin Islands**Definitions****Domestic Violence Defined**

Children not addressed in statutes reviewed

Persons Included in Definition

Children not addressed in statutes reviewed

Exceptions

Not addressed in statutes reviewed

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

PenaltiesNot addressed in statutes reviewed

Virginia**Definitions****Domestic Violence Defined****Statute: § 16.1-228**

'Family abuse': Any act involving violence, force, or threat, including forceful detention, which results in bodily injury or places one in reasonable apprehension of bodily injury

Persons Included in Definition**Statute: § 16.1-228**

'Family or household member':

- Spouse or former spouse
- Parents, stepparents, children, stepchildren, siblings, half-siblings, grandparents, and grandchildren
- Mother-in-law, father-in-law, sons-in-law, etc., who live in the same home
- Persons with a child in common
- Persons who cohabit or have cohabited within the previous 12 months, and any children of either of them residing in the same home

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Washington**Definitions****Domestic Violence Defined****Statute: § 26.50.010**

'Domestic violence':

- Physical harm, bodily injury, or assault
- Infliction of fear of imminent physical harm
- Sexual assault
- Stalking

Persons Included in Definition**Statute: § 26.50.010**

'Family or household members':

- Spouse or former spouse
- Persons who have a child in common
- Adults who are residing or have resided together
- Persons age 16 or older who are residing or have resided together, or have or have had a dating relationship
- Persons who have a biological or legal parent-child relationship, including stepparents and stepchildren, and grandparents and grandchildren

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing****Statute: § 9.94A.535**

An offense occurring within sight or sound of the victim's or offender's minor children under the age of 18 years

Penalties**Statute: § 9.94A.535**Considered an aggravating circumstance when determining the sentence to be imposed

West Virginia**Definitions****Domestic Violence Defined****Statute: § 48-27-202**

'Domestic violence' or 'abuse':

- Attempting to cause or intentionally, knowingly, or recklessly causing physical harm
- Placing another in reasonable apprehension of physical harm
- Creating fear of harm by harassment or threatening acts
- Sexual assault or abuse
- Confining, detaining, or abducting another against that person's will

Persons Included in Definition**Statute: § 48-27-202**

'Family or household member' means persons who:

- Are or were married
- Are or were living together
- Are or were dating
- Are or were sexual or intimate partners
- Are or were related by marriage or are related within the 2nd degree
- Have a child in common
- Have the following relationships: Parent, stepparent, sibling or half-sibling, stepsibling, father- or mother-in-law, child or stepchild, aunt, uncle, niece, nephew, cousin, grandparent

Exceptions

None specified in statute

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Wisconsin**Definitions****Domestic Violence Defined**

Children not addressed in statutes reviewed

Persons Included in Definition

Children not addressed in statutes reviewed

Exceptions

Not addressed in statutes reviewed

Child Witnesses to Domestic Violence**Circumstances That Constitute Witnessing**

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed

Wyoming

Definitions

Domestic Violence Defined

Children not addressed in statutes reviewed

Persons Included in Definition

Children not addressed in statutes reviewed

Exceptions

Not addressed in statutes reviewed

Child Witnesses to Domestic Violence

Circumstances That Constitute Witnessing

Not addressed in statutes reviewed

Penalties

Not addressed in statutes reviewed