

SENATE, No. 1917

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED MARCH 10, 2016

Sponsored by:

Senator JAMES BEACH

District 6 (Burlington and Camden)

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/16/2016)

S1917 BEACH, DIEGNAN

2,

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:

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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 certain criminal acts including,
44 among others, homicide, assault, terroristic threats, kidnapping,
45 sexual assault, criminal mischief, burglary, criminal trespass,
46 harassment, robbery, criminal coercion or stalking upon a person
47 protected under the provisions of the “Prevention of Domestic
48 Violence Act of 1991,” P.L.1991, c.261 (C.2C:25-17 et seq.). In

1 addition to the remedies available to a victim under the provisions
2 of the “Prevention of Domestic Violence Act of 1991,” a person
3 who commits an act of domestic violence may be subject to
4 criminal prosecution for the act that constituted domestic violence.

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

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

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

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