

SENATE BILL No. 303

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-41-1-9; IC 35-42-4-1; IC 35-42-4-2.

Synopsis: Rape and deviate sexual conduct. Makes sexual intercourse or deviate sexual conduct without consent a Class C felony. Provides that consent is words or actions by a person who is competent to give informed consent. Defines deviate sexual conduct to include penetration of a sex organ or anus by a body part other than a sex organ.

Effective: July 1, 1998.

Bowser

January 8, 1998, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

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Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

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SENATE BILL No. 303



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-41-1-9 IS AMENDED TO READ AS
- 2 FOLLOWS 4. [EFFECTIVE JULY 1, 1998]: Sec. 9. "Deviate sexual
- 3 conduct" means an act involving:
- 4 (1) a sex organ of one person and the mouth or anus of another
- 5 person; ~~or~~
- 6 (2) the penetration of the sex organ or anus of a person by an
- 7 object; **or**
- 8 (3) **the penetration of a sex organ or anus of a person by a**
- 9 **body part other than a sex organ.**
- 10 SECTION 2. IC 35-42-4-1 IS AMENDED TO READ AS
- 11 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. **(a) As used in this**
- 12 **section, "consent" means words or overt actions by a person who**
- 13 **is competent to give informed consent indicating a freely given**
- 14 **agreement to have sexual intercourse.**
- 15 **(b) A person who knowingly or intentionally has sexual intercourse**
- 16 **with a member of the opposite sex when **the other person has not****
- 17 **consented to sexual intercourse commits rape, a Class C felony.**



1 **However, the offense is a:**

2 (1) **Class B felony if:**

3 (A) the other person is compelled **to have sexual intercourse**
4 by force or imminent threat of force;

5 ~~(B)~~ (B) the other person is unaware that the sexual intercourse
6 is occurring; or

7 ~~(C)~~ (C) the other person is so mentally **or physically** disabled
8 or deficient that consent to sexual intercourse cannot be given;

9 ~~commits rape; a Class B felony. However, the offense is a~~ **and**

10 (2) Class A felony if it:

11 (A) is committed by using or threatening the use of deadly
12 force; **if it**

13 (B) is committed while armed with a deadly weapon; or **if it**

14 (C) results in serious bodily injury to a person other than a
15 defendant.

16 SECTION 3. IC 35-42-4-2 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) **As used in this**
18 **section, "consent" means words or overt actions by a person who**
19 **is competent to give informed consent indicating a freely given**
20 **agreement to perform or submit to deviate sexual conduct.**

21 (b) A person who knowingly or intentionally causes another person
22 to perform or submit to deviate sexual conduct when **the other person**
23 **has not consented to perform or submit to deviate sexual conduct**
24 **commits criminal deviate conduct, a Class C felony. However, the**
25 **offense is a:**

26 (1) **Class B felony if:**

27 ~~(A)~~ (A) the other person is compelled by force or imminent
28 threat of force;

29 ~~(B)~~ (B) the other person is unaware that the conduct is
30 occurring; or

31 ~~(C)~~ (C) the other person is so mentally disabled or deficient
32 that consent to the conduct cannot be given;

33 ~~commits criminal deviate conduct; a Class B felony. However, the~~
34 ~~offense is a~~ **and**

35 (2) Class A felony if it:

36 (A) is committed by using or threatening the use of deadly
37 force; **if it**

38 (B) is committed while armed with a deadly weapon; or **if it**

39 (C) results in serious bodily injury to any person other than a
40 defendant.

41 SECTION 4. [EFFECTIVE JULY 1, 1998] **IC 35-42-4-1 and**
42 **IC 35-42-4-2, as amended by this act, apply only to crimes**



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1 committed after June 30, 1998.

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