

March 26, 1999

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# ENGROSSED HOUSE BILL No. 1210

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DIGEST OF HB 1210 (Updated March 24, 1999 6:24 pm - DI 76)

**Citations Affected:** IC 20-5; IC 31-34; IC 35-46.

**Synopsis:** Neglect of a dependent. Increases the penalty for neglect of a dependent from a Class D felony to: (1) a Class C felony if it results in bodily injury; and (2) a Class C felony if the offense involves cruel or unusual confinement or abandonment of the dependent. Adds a conviction of a child's parent, guardian, or custodian for neglect of a dependent as a Class B felony to the list of convictions for offenses in which reasonable efforts to reunify a child with the child's parent, guardian, or custodian or to preserve the child's family are not required. Provides that commission of neglect of a dependent as a Class B felony may be grounds for a school not to employ an individual. Makes a conforming change.

**Effective:** July 1, 1999.

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## Cook, Ruppel, Budak, Foley

(SENATE SPONSORS — BRAY, ALEXA)

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January 11, 1999, read first time and referred to Committee on Courts and Criminal Code.  
February 22, 1999, amended, reported — Do Pass.  
March 1, 1999, read second time, ordered engrossed. Placed back on second reading for purposes of amendment. Reread second time, amended, ordered engrossed.  
March 2, 1999, engrossed. Read third time, passed. Yeas 91, nays 3.

#### SENATE ACTION

March 8, 1999, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.  
March 25, 1999, amended, reported favorably — Do Pass.

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EH 1210—LS 6911/DI 76+



March 26, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

## ENGROSSED HOUSE BILL No. 1210

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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 20-5-2-8 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) This section applies to:  
3           (1) a school corporation; and  
4           (2) an entity:  
5                 (A) with which the school corporation contracts for services;  
6                 and  
7                 (B) that has employees who are likely to have direct, ongoing  
8                 contact with children within the scope of the employees'  
9                 employment.  
10          (b) A school corporation or entity may use information obtained  
11          under section 7 of this chapter concerning an individual's conviction for  
12          one (1) of the following offenses as grounds to not employ or contract  
13          with the individual:  
14                 (1) Murder (IC 35-42-1-1).  
15                 (2) Causing suicide (IC 35-42-1-2).  
16                 (3) Assisting suicide (IC 35-42-1-2.5).  
17                 (4) Voluntary manslaughter (IC 35-42-1-3).

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- 1 (5) Reckless homicide (IC 35-42-1-5).  
 2 (6) Battery (IC 35-42-2-1) unless ten (10) years have elapsed from  
 3 the date the individual was discharged from probation,  
 4 imprisonment, or parole, whichever is later.  
 5 (7) Aggravated battery (IC 35-42-2-1.5).  
 6 (8) Kidnapping (IC 35-42-3-2).  
 7 (9) Criminal confinement (IC 35-42-3-3).  
 8 (10) A sex offense under IC 35-42-4.  
 9 (11) Carjacking (IC 35-42-5-2).  
 10 (12) Arson (IC 35-43-1-1) unless ten (10) years have elapsed from  
 11 the date the individual was discharged from probation,  
 12 imprisonment, or parole, whichever is later.  
 13 (13) Incest (IC 35-46-1-3).  
 14 (14) Neglect of a dependent (~~IC 35-46-1-4(a)(1) and~~  
 15 ~~IC 35-46-1-4(a)(2)~~) **as a Class B felony** unless ten (10) years  
 16 have elapsed from the date the individual was discharged from  
 17 probation, imprisonment, or parole, whichever is later.  
 18 (15) Child selling (~~IC 35-46-1-4(b)~~): **(IC 35-46-1-4(c))**.  
 19 (16) Contributing to the delinquency of a minor (IC 35-46-1-8)  
 20 unless ten (10) years have elapsed from the date the individual  
 21 was discharged from probation, imprisonment, or parole,  
 22 whichever is later.  
 23 (17) An offense involving a weapon under IC 35-47 unless ten  
 24 (10) years have elapsed from the date the individual was  
 25 discharged from probation, imprisonment, or parole, whichever  
 26 is later.  
 27 (18) An offense relating to controlled substances under  
 28 IC 35-48-4 unless ten (10) years have elapsed from the date the  
 29 individual was discharged from probation, imprisonment, or  
 30 parole, whichever is later.  
 31 (19) An offense relating to material or a performance that is  
 32 harmful to minors or obscene under IC 35-49-3 unless ten (10)  
 33 years have elapsed from the date the individual was discharged  
 34 from probation, imprisonment, or parole, whichever is later.  
 35 (20) An offense relating to operating a motor vehicle while  
 36 intoxicated under IC 9-30-5 unless five (5) years have elapsed  
 37 from the date the individual was discharged from probation,  
 38 imprisonment, or parole, whichever is later.  
 39 (21) An offense that is substantially equivalent to any of the  
 40 offenses listed in this subsection in which the judgment of  
 41 conviction was entered under the law of any other jurisdiction.  
 42 (c) An individual employed by a school corporation or an entity



1 described in subsection (a) shall notify the governing body of the  
 2 school corporation if during the course of the individual's employment  
 3 the individual is convicted in Indiana or another jurisdiction of an  
 4 offense described in subsection (b).

5 SECTION 2. IC 31-34-21-5.6 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5.6. (a) A court may  
 7 make a finding described in this section at any phase of a child in need  
 8 of services proceeding.

9 (b) Reasonable efforts to reunify a child with the child's parent,  
 10 guardian, or custodian or preserve a child's family as described in  
 11 section 5.5 of this chapter are not required if the court finds any of the  
 12 following:

13 (1) A parent, guardian, or custodian of a child who is a child in  
 14 need of services has been convicted of:

15 (A) an offense described in IC 31-35-3-4(1)(B) or  
 16 IC 31-35-3-4(1)(D) through IC 31-35-3-4(J) against a victim  
 17 who is:

- 18 (i) a child described in IC 31-35-3-4(2); or  
 19 (ii) a parent of the child; or

20 (B) a comparable offense as described in clause (A) in any  
 21 other state, territory, or country by a court of competent  
 22 jurisdiction.

23 (2) A parent, guardian, or custodian of a child who is a child in  
 24 need of services:

25 (A) has been convicted of:

- 26 (i) the murder (IC 35-42-1-1) or voluntary manslaughter (IC  
 27 35-42-1-3) of a victim who is a child described in  
 28 IC 31-35-3-4(2)(B) or a parent of the child; or  
 29 (ii) a comparable offense described in item (i) in any other  
 30 state, territory, or country; or

31 (B) has been convicted of:

- 32 (i) aiding, inducing, or causing another person;  
 33 (ii) attempting; or  
 34 (iii) conspiring with another person;

35 to commit an offense described in clause (A).

36 (3) A parent, guardian, or custodian of a child who is a child in  
 37 need of services has been convicted of:

- 38 (A) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;  
 39 (B) battery (IC 35-42-2-1(a)(3)) as a Class C felony;  
 40 (C) aggravated battery (IC 35-42-2-1.5);  
 41 (D) criminal recklessness (IC 35-42-2-2(c)) as a Class C  
 42 felony; or



- 1           **(E) neglect of a dependent (IC 35-46-1-4) as a Class B**  
 2           **felony; or**  
 3           ~~(E)~~ **(F) a comparable offense described in clauses (A) through**  
 4           **(D) in another state, territory, or country;**  
 5           against a child described in IC 31-35-3-4(2)(B).  
 6           (4) The parental rights of a parent with respect to a biological or  
 7           adoptive sibling of a child who is a child in need of services have  
 8           been involuntarily terminated by a court under:  
 9           (A) IC 31-35-2 (involuntary termination involving a  
 10           delinquent child or a child in need of services);  
 11           (B) IC 31-35-3 (involuntary termination involving an  
 12           individual convicted of a criminal offense); or  
 13           (C) any comparable law described in clause (A) or (B) in any  
 14           other state, territory, or country.  
 15           (5) The child is an abandoned infant, provided that the court:  
 16           (A) has appointed a guardian ad litem or court appointed  
 17           special advocate for the child; and  
 18           (B) after receiving a written report and recommendation from  
 19           the guardian ad litem or court appointed special advocate, and  
 20           after a hearing, finds that reasonable efforts to locate the  
 21           child's parents or reunify the child's family would not be in the  
 22           best interests of the child.
- 23           SECTION 3. IC 35-46-1-4 IS AMENDED TO READ AS  
 24           FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) A person having  
 25           the care of a dependent, whether assumed voluntarily or because of a  
 26           legal obligation, who knowingly or intentionally:  
 27           (1) places the dependent in a situation that ~~may endanger his~~  
 28           **endangers the dependent's** life or health;  
 29           (2) abandons or cruelly confines the dependent;  
 30           (3) deprives the dependent of necessary support; or  
 31           (4) deprives the dependent of education as required by law;  
 32           commits neglect of a dependent, a Class D felony.  
 33           **(b) However, except for a violation of subdivision (4), the offense**  
 34           **is:**  
 35           **is a Class B felony if it results in serious bodily injury**  
 36           **(1) a Class C felony if it is committed under subsection (a)(1),**  
 37           **(a)(2), or (a)(3) and results in bodily injury;**  
 38           **(2) a Class B felony if it is committed under subsection (a)(1),**  
 39           **(a)(2), or (a)(3) and results in serious bodily injury; and**  
 40           **(3) a Class C felony if it is committed under subsection (a)(2)**  
 41           **and consists of cruel or unusual confinement or abandonment.**  
 42           It is a defense that the accused person, in the legitimate practice of his



1 religious belief, provided treatment by spiritual means through prayer,  
2 in lieu of medical care, to his dependent.  
3 ~~(b)~~ (c) Except for property transferred or received:  
4 (1) under a court order made in connection with a proceeding  
5 under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5  
6 or IC 31-6-5 before their repeal); or  
7 (2) under IC 35-46-1-9(b);  
8 a person who transfers or receives any property in consideration for the  
9 termination of the care, custody, or control of a person's dependent  
10 child commits child selling, a Class D felony.

