



February 23, 1999

HOUSE BILL No. 1210

DIGEST OF HB 1210 (Updated February 22, 1999 8:36 am - DI 76)

Citations Affected: 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 a Class B felony if the offense involves: (1) placing the dependent in a situation that may endanger the dependent's life or health; or (2) abandoning or cruelly confining the dependent. Raises the penalty for neglect of a dependent arising from depriving a dependent of necessary support from a Class D felony to a Class C felony if it results in bodily injury and to a Class B felony if it results in serious bodily injury. Adds a conviction of a child's parent, guardian, or custodian for neglect of a dependent as a Class B or Class C 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. Makes a conforming change.

Effective: July 1, 1999.

Cook, Ruppel

January 11, 1999, read first time and referred to Committee on Courts and Criminal Code.
February 22, 1999, amended, reported — Do Pass.

HB 1210—LS 6911/DI 76+



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February 23, 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.

HOUSE BILL No. 1210

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 31-34-21-5.6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5.6. (a) A court may
3 make a finding described in this section at any phase of a child in need
4 of services proceeding.
5 (b) Reasonable efforts to reunify a child with the child's parent,
6 guardian, or custodian or preserve a child's family as described in
7 section 5.5 of this chapter are not required if the court finds any of the
8 following:
9 (1) A parent, guardian, or custodian of a child who is a child in
10 need of services has been convicted of:
11 (A) an offense described in IC 31-35-3-4(1)(B) or
12 IC 31-35-3-4(1)(D) through IC 31-35-3-4(J) against a victim
13 who is:
14 (i) a child described in IC 31-35-3-4(2); or
15 (ii) a parent of the child; or
16 (B) a comparable offense as described in clause (A) in any
17 other state, territory, or country by a court of competent

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- 1 jurisdiction.
- 2 (2) A parent, guardian, or custodian of a child who is a child in
3 need of services:
- 4 (A) has been convicted of:
- 5 (i) the murder (IC 35-42-1-1) or voluntary manslaughter (IC
6 35-42-1-3) of a victim who is a child described in
7 IC 31-35-3-4(2)(B) or a parent of the child; or
8 (ii) a comparable offense described in item (i) in any other
9 state, territory, or country; or
- 10 (B) has been convicted of:
- 11 (i) aiding, inducing, or causing another person;
12 (ii) attempting; or
13 (iii) conspiring with another person;
14 to commit an offense described in clause (A).
- 15 (3) A parent, guardian, or custodian of a child who is a child in
16 need of services has been convicted of:
- 17 (A) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;
18 (B) battery (IC 35-42-2-1(a)(3)) as a Class C felony;
19 (C) aggravated battery (IC 35-42-2-1.5);
20 (D) criminal recklessness (IC 35-42-2-2(c)) as a Class C
21 felony; or
22 **(E) neglect of a dependent (IC 35-46-1-4) as a Class B or
23 Class C felony; or**
24 ~~(E)~~ **(F)** a comparable offense described in clauses (A) through
25 (D) in another state, territory, or country;
26 against a child described in IC 31-35-3-4(2)(B).
- 27 (4) The parental rights of a parent with respect to a biological or
28 adoptive sibling of a child who is a child in need of services have
29 been involuntarily terminated by a court under:
- 30 (A) IC 31-35-2 (involuntary termination involving a
31 delinquent child or a child in need of services);
32 (B) IC 31-35-3 (involuntary termination involving a
33 individual convicted of a criminal offense); or
34 (C) any comparable law described in clause (A) or (B) in any
35 other state, territory, or country.
- 36 (5) The child is an abandoned infant, provided that the court:
- 37 (A) has appointed a guardian ad litem or court appointed
38 special advocate for the child; and
39 (B) after receiving a written report and recommendation from
40 the guardian ad litem or court appointed special advocate, and
41 after a hearing, finds that reasonable efforts to locate the
42 child's parents or reunify the child's family would not be in the

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1 best interests of the child.

2 SECTION 2. IC 35-46-1-4 IS AMENDED TO READ AS

3 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) A person having

4 the care of a dependent, whether assumed voluntarily or because of a

5 legal obligation, who knowingly or intentionally:

6 (1) places the dependent in a situation that may endanger his life

7 or health;

8 (2) abandons or cruelly confines the dependent;

9 (3) deprives the dependent of necessary support; or

10 (4) deprives the dependent of education as required by law;

11 commits neglect of a dependent. **The offense is a Class D felony if it**

12 **is committed under subdivision (3) or (4) and a Class B felony if it**

13 **is committed under subdivision (1) or (2).** However, ~~except for a~~

14 ~~violation of subdivision (4);~~ the offense **under subdivision (3)** is a

15 **Class C felony if it results in bodily injury and a Class B felony if it**

16 **results in serious bodily injury.** It is a defense that the accused person,

17 in the legitimate practice of his religious belief, provided treatment by

18 spiritual means through prayer, in lieu of medical care, to his

19 dependent.

20 (b) Except for property transferred or received:

21 (1) under a court order made in connection with a proceeding

22 under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5

23 or IC 31-6-5 before their repeal); or

24 (2) under IC 35-46-1-9(b);

25 a person who transfers or receives any property in consideration for the

26 termination of the care, custody, or control of a person's dependent

27 child commits child selling, a Class D felony.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1210, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

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

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

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

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

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

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

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

(A) has been convicted of:

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

(B) has been convicted of:

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

to commit an offense described in clause (A).

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

- (A) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;
- (B) battery (IC 35-42-2-1(a)(3)) as a Class C felony;



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- (C) aggravated battery (IC 35-42-2-1.5);
- (D) criminal recklessness (IC 35-42-2-2(c)) as a Class C felony; **or**
- (E) neglect of a dependent (IC 35-46-1-4) as a Class B or Class C felony; or**

~~(E)~~ (F) a comparable offense described in clauses (A) through (D) in another state, territory, or country; against a child described in IC 31-35-3-4(2)(B).

(4) The parental rights of a parent with respect to a biological or adoptive sibling of a child who is a child in need of services have been involuntarily terminated by a court under:

- (A) IC 31-35-2 (involuntary termination involving a delinquent child or a child in need of services);
- (B) IC 31-35-3 (involuntary termination involving an individual convicted of a criminal offense); or
- (C) any comparable law described in clause (A) or (B) in any other state, territory, or country.

(5) The child is an abandoned infant, provided that the court:
(A) has appointed a guardian ad litem or court appointed special advocate for the child; and
(B) after receiving a written report and recommendation from the guardian ad litem or court appointed special advocate, and after a hearing, finds that reasonable efforts to locate the child's parents or reunify the child's family would not be in the best interests of the child."

Page 1, line 14, before "Class B" insert "**Class C felony if it results in bodily injury and a**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1210 as introduced.)

DVORAK, Chair

Committee Vote: yeas 12, nays 1.

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