



Reprinted
March 2, 1999

HOUSE BILL No. 1210

DIGEST OF HB 1210 (Updated March 1, 1999 8:53 pm - DI 51)

Citations Affected: IC 20-5; IC 31-19; 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. Increases the penalty for neglect of a dependent to a Class A felony when the offense results in death. Provides that commission of a neglect of a dependent as a
(Continued next page)

Effective: July 1, 1999.

Cook, Ruppel, Budak, Foley

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.

HB 1210—LS 6911/DI 76+



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Digest Continued

Class A or Class B felony may be grounds for a school not to employ an individual or as grounds for not requiring the consent of the individual for an adoption. Makes a conforming change.

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HB 1210—LS 6911/DI 76+



Reprinted
March 2, 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 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).

HB 1210—LS 6911/DI 76+



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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 IC~~
 15 ~~35-46-1-4(a)(2)~~) **as a Class A or Class B felony** unless ten (10)
 16 years have elapsed from the date the individual was discharged
 17 from 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

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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 31-19-9-10 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. A court shall
 7 determine that consent to adoption is not required from a parent if:

8 (1) the parent is convicted of and incarcerated at the time of the
 9 filing of a petition for adoption for:

10 (A) murder (IC 35-42-1-1);

11 (B) causing suicide (IC 35-42-1-2);

12 (C) voluntary manslaughter (IC 35-42-1-3);

13 (D) rape (IC 35-42-4-1);

14 (E) criminal deviate conduct (IC 35-42-4-2);

15 (F) child molesting as a Class A or Class B felony
 16 (IC 35-42-4-3);

17 (G) incest as a Class B felony (IC 35-46-1-3);

18 (H) neglect of a dependent as a **Class A or Class B** felony
 19 (IC 35-46-1-4);

20 (I) battery of a child as a Class C felony (IC 35-42-2-1(a)(3));
 21 or

22 (J) an attempt under IC 35-41-5-1 to commit an offense
 23 described in clauses (A) through (I);

24 (2) the child or the child's sibling, half-blood sibling, or
 25 step-sibling of the parent's current marriage is the victim of the
 26 offense; and

27 (3) after notice to the parent and a hearing, the court determines
 28 that dispensing with the parent's consent to adoption is in the
 29 child's best interests.

30 SECTION 3. IC 31-34-21-5.6 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5.6. (a) A court may
 32 make a finding described in this section at any phase of a child in need
 33 of services proceeding.

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

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

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

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- 1 (i) a child described in IC 31-35-3-4(2); or
 2 (ii) a parent of the child; or
 3 (B) a comparable offense as described in clause (A) in any
 4 other state, territory, or country by a court of competent
 5 jurisdiction.
 6 (2) A parent, guardian, or custodian of a child who is a child in
 7 need of services:
 8 (A) has been convicted of:
 9 (i) the murder (IC 35-42-1-1) or voluntary manslaughter (IC
 10 35-42-1-3) of a victim who is a child described in
 11 IC 31-35-3-4(2)(B) or a parent of the child; or
 12 (ii) a comparable offense described in item (i) in any other
 13 state, territory, or country; or
 14 (B) has been convicted of:
 15 (i) aiding, inducing, or causing another person;
 16 (ii) attempting; or
 17 (iii) conspiring with another person;
 18 to commit an offense described in clause (A).
 19 (3) A parent, guardian, or custodian of a child who is a child in
 20 need of services has been convicted of:
 21 (A) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;
 22 (B) battery (IC 35-42-2-1(a)(3)) as a Class C felony;
 23 (C) aggravated battery (IC 35-42-2-1.5);
 24 (D) criminal recklessness (IC 35-42-2-2(c)) as a Class C
 25 felony; ~~or~~
 26 **(E) neglect of a dependent (IC 35-46-1-4) as a Class B or**
 27 **Class C felony; or**
 28 ~~(F)~~ **(F)** a comparable offense described in clauses (A) through
 29 (D) in another state, territory, or country;
 30 against a child described in IC 31-35-3-4(2)(B).
 31 (4) The parental rights of a parent with respect to a biological or
 32 adoptive sibling of a child who is a child in need of services have
 33 been involuntarily terminated by a court under:
 34 (A) IC 31-35-2 (involuntary termination involving a
 35 delinquent child or a child in need of services);
 36 (B) IC 31-35-3 (involuntary termination involving an
 37 individual convicted of a criminal offense); or
 38 (C) any comparable law described in clause (A) or (B) in any
 39 other state, territory, or country.
 40 (5) The child is an abandoned infant, provided that the court:
 41 (A) has appointed a guardian ad litem or court appointed
 42 special advocate for the child; and

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1 (B) after receiving a written report and recommendation from
 2 the guardian ad litem or court appointed special advocate, and
 3 after a hearing, finds that reasonable efforts to locate the
 4 child's parents or reunify the child's family would not be in the
 5 best interests of the child.

6 SECTION 4. IC 35-46-1-4 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) A person having
 8 the care of a dependent, whether assumed voluntarily or because of a
 9 legal obligation, who knowingly or intentionally:

- 10 (1) places the dependent in a situation that may endanger his life
 11 or health;
 12 (2) abandons or cruelly confines the dependent;
 13 (3) deprives the dependent of necessary support; or
 14 (4) deprives the dependent of education as required by law;

15 commits neglect of a dependent. **The offense is a Class D felony if it**
 16 **is committed under subdivision (3) or (4) and a Class B felony if it**
 17 **is committed under subdivision (1) or (2).**

18 (b) However, ~~except for a violation of subdivision (4);~~ the offense:

- 19 **(1) under subsection (a)(3) is a Class C felony if it results in**
 20 **bodily injury and a Class B felony if it results in serious bodily**
 21 **injury; and**
 22 **(2) under subsections (a)(1) through (a)(3) is a Class A felony**
 23 **if it results in the death of the dependent.**

24 It is a defense that the accused person, in the legitimate practice of his
 25 religious belief, provided treatment by spiritual means through prayer,
 26 in lieu of medical care, to his dependent.

27 ~~(b)~~ (c) Except for property transferred or received:

- 28 (1) under a court order made in connection with a proceeding
 29 under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5
 30 or IC 31-6-5 before their repeal); or
 31 (2) under IC 35-46-1-9(b);

32 a person who transfers or receives any property in consideration for the
 33 termination of the care, custody, or control of a person's dependent
 34 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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HOUSE MOTION

Mr. Speaker: I move that House Bill 1210 be amended to read as follows:

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

"SECTION 1. IC 20-5-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) This section applies to:

- (1) a school corporation; and
- (2) an entity:
 - (A) with which the school corporation contracts for services; and
 - (B) that has employees who are likely to have direct, ongoing contact with children within the scope of the employees' employment.

(b) A school corporation or entity may use information obtained under section 7 of this chapter concerning an individual's conviction for one (1) of the following offenses as grounds to not employ or contract with the individual:

- (1) Murder (IC 35-42-1-1).
- (2) Causing suicide (IC 35-42-1-2).
- (3) Assisting suicide (IC 35-42-1-2.5).
- (4) Voluntary manslaughter (IC 35-42-1-3).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Battery (IC 35-42-2-1) unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
- (7) Aggravated battery (IC 35-42-2-1.5).
- (8) Kidnapping (IC 35-42-3-2).
- (9) Criminal confinement (IC 35-42-3-3).
- (10) A sex offense under IC 35-42-4.
- (11) Carjacking (IC 35-42-5-2).
- (12) Arson (IC 35-43-1-1) unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
- (13) Incest (IC 35-46-1-3).
- (14) Neglect of a dependent (~~IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)~~) as a **Class A or Class B felony** unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
- (15) Child selling (~~IC 35-46-1-4(b)~~). (**IC 35-46-1-4(c)**).

HB 1210—LS 6911/DI 76+



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(16) Contributing to the delinquency of a minor (IC 35-46-1-8) unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(17) An offense involving a weapon under IC 35-47 unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(18) An offense relating to controlled substances under IC 35-48-4 unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(19) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3 unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(20) An offense relating to operating a motor vehicle while intoxicated under IC 9-30-5 unless five (5) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(21) An offense that is substantially equivalent to any of the offenses listed in this subsection in which the judgment of conviction was entered under the law of any other jurisdiction.

(c) An individual employed by a school corporation or an entity described in subsection (a) shall notify the governing body of the school corporation if during the course of the individual's employment the individual is convicted in Indiana or another jurisdiction of an offense described in subsection (b).

SECTION 2. IC 31-19-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. A court shall determine that consent to adoption is not required from a parent if:

(1) the parent is convicted of and incarcerated at the time of the filing of a petition for adoption for:

- (A) murder (IC 35-42-1-1);
- (B) causing suicide (IC 35-42-1-2);
- (C) voluntary manslaughter (IC 35-42-1-3);
- (D) rape (IC 35-42-4-1);
- (E) criminal deviate conduct (IC 35-42-4-2);
- (F) child molesting as a Class A or Class B felony (IC 35-42-4-3);
- (G) incest as a Class B felony (IC 35-46-1-3);
- (H) neglect of a dependent as a **Class A or Class B** felony



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(IC 35-46-1-4);

(I) battery of a child as a Class C felony (IC 35-42-2-1(a)(3));

or

(J) an attempt under IC 35-41-5-1 to commit an offense described in clauses (A) through (I);

(2) the child or the child's sibling, half-blood sibling, or step-sibling of the parent's current marriage is the victim of the offense; and

(3) after notice to the parent and a hearing, the court determines that dispensing with the parent's consent to adoption is in the child's best interests."

Page 3, line 13, before "However" begin a new paragraph and insert: "**(b)**".

Page 3, line 14, after "offense" insert ":",

Page 3, line 14, before "under" begin a new line block indented and insert:

"**(1)**".

Page 3, line 14, delete "subdivision (3)" and insert "**subsection (a)(3)**".

Page 3, line 16, delete "." and insert "; **and**".

Page 3, line 16, before "It" begin a new line block indented and insert:

"**(2) under subsections (a)(1) through (a)(3) is a Class A felony if it results in the death of the dependent.**".

Page 3, line 16, beginning with "It", begin a new line blocked left.

Page 3, line 20, strike "(b)" and insert "(c)".

Renumber all SECTIONS consecutively.

(Reference is to HB 1210 as printed February 23, 1999.)

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