



February 25, 1999

# HOUSE BILL No. 1738

DIGEST OF HB 1738 (Updated February 24, 1999 9:32 am - DI 76)

**Citations Affected:** IC 35-33; IC 35-46.

**Synopsis:** Arrest and detention. Provides that if a person is arrested for allegedly committing a forcible felony or a misdemeanor that results in bodily injury to another person and the victim of the felony or misdemeanor: (1) is an emancipated minor or a person who is at least 16 years of age; and (2) is or was a spouse of, is or was living as if a spouse of, is related by blood or marriage to, has at least one child in common with, or resides or has resided in the same residence as the person who allegedly committed the felony or misdemeanor, the person who allegedly committed the felony or misdemeanor must be detained in the custody of a law enforcement agency for 24 hours. Allows the person to be detained for more than 24 hours but not more than 48 hours if the end of the 24 hour period falls on a Sunday. Provides that a person who commits or attempts to commit certain criminal offenses while the person who commits the offense knew the act would be  
(Continued next page)

**Effective:** July 1, 1999.

---

---

**Welch, Kruzan, Atterholt, Kuzman,  
Steele**

---

---

January 26, 1999, read first time and referred to Committee on Courts and Criminal Code.  
February 24, 1999, amended, reported — Do Pass.

---

---

HB 1738—LS 7952/DI 69+



C  
O  
P  
Y

Digest Continued

committed in the presence of a child commits domestic violence in the presence of a child as either a Class A misdemeanor or a Class D felony.

C  
o  
p  
y

**HB 1738—LS 7952/DI 69+**



February 25, 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.

C  
O  
P  
Y

## HOUSE BILL No. 1738

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 35-33-1-7 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 1999]: **Sec. 7. (a) Except as provided in subsection (b), if:**  
4 **(1) a person is arrested for allegedly committing:**  
5 **(A) a forcible felony; or**  
6 **(B) a misdemeanor that results in bodily injury to another**  
7 **person; and**  
8 **(2) the victim of the felony or misdemeanor is an emancipated**  
9 **minor or a person who is at least sixteen (16) years of age**  
10 **who:**  
11 **(A) is or was a spouse of;**  
12 **(B) is or was living as if a spouse of;**  
13 **(C) is related by blood or marriage to;**  
14 **(D) has at least one (1) child in common with; or**  
15 **(E) resides or has resided in the same residence as;**

HB 1738—LS 7952/DI 69+



1 the person who allegedly committed the felony or misdemeanor,  
 2 the person who allegedly committed the felony or misdemeanor  
 3 must be detained in the custody of a law enforcement agency for  
 4 twenty-four (24) hours.

5 (b) A person may be detained under subsection (a) for more  
 6 than twenty-four (24) hours but not more than forty-eight (48)  
 7 hours if the end of the period described in subsection (a) falls on a  
 8 Sunday.

9 SECTION 2. IC 35-46-1-20 IS ADDED TO THE INDIANA CODE  
 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 11 1, 1999]: Sec. 20. (a) As used in this section, "child" means a person  
 12 who is less than seventeen (17) years of age.

13 (b) A person who commits or attempts to commit the offense of:

- 14 (1) battery as a class A misdemeanor (IC 35-42-2-1(a)(1));
- 15 (2) battery as a Class D felony (IC 35-42-2-1(a)(2));
- 16 (3) stalking (IC 35-45-10-5);
- 17 (4) invasion of privacy (IC 35-46-1-15.1); or
- 18 (5) pointing a firearm (IC 35-47-4-3);

19 while the person who commits the offense knew the act would be  
 20 committed in the presence of a child commits domestic violence in  
 21 the presence of a child, a Class A misdemeanor.

22 (c) A person who commits or attempts to commit the offense of:

- 23 (1) murder (IC 35-42-1-1);
- 24 (2) voluntary manslaughter (IC 35-42-1-3);
- 25 (3) battery as a Class C felony (IC 35-42-2-1(a)(3));
- 26 (4) aggravated battery (IC 35-42-2-1.5);
- 27 (5) kidnapping (IC 35-42-3-2);
- 28 (6) criminal confinement (IC 35-42-3-3);
- 29 (7) rape (IC 35-42-4-1);
- 30 (8) criminal deviate conduct (IC 35-42-4-2); or
- 31 (9) arson (IC 35-43-1-1);

32 while the person who commits the offense knew the act would be  
 33 committed in the presence of a child commits domestic violence in  
 34 the presence of a child, a Class D felony.

C  
O  
P  
Y



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1738, 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 2, after line 6, begin a new paragraph and insert:

"SECTION 2. IC 35-46-1-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 20. (a) As used in this section, "child" means a person who is less than seventeen (17) years of age.**

**(b) A person who commits or attempts to commit the offense of:**

- (1) battery as a class A misdemeanor (IC 35-42-2-1(a)(1));**
- (2) battery as a Class D felony (IC 35-42-2-1(a)(2));**
- (3) stalking (IC 35-45-10-5);**
- (4) invasion of privacy (IC 35-46-1-15.1); or**
- (5) pointing a firearm (IC 35-47-4-3);**

**while the person who commits the offense knew the act would be committed in the presence of a child commits domestic violence in the presence of a child, a Class A misdemeanor.**

**(c) A person who commits or attempts to commit the offense of:**

- (1) murder (IC 35-42-1-1);**
- (2) voluntary manslaughter (IC 35-42-1-3);**
- (3) battery as a Class C felony (IC 35-42-2-1(a)(3));**
- (4) aggravated battery (IC 35-42-2-1.5);**
- (5) kidnapping (IC 35-42-3-2);**
- (6) criminal confinement (IC 35-42-3-3);**
- (7) rape (IC 35-42-4-1);**
- (8) criminal deviate conduct (IC 35-42-4-2); or**
- (9) arson (IC 35-43-1-1);**

**while the person who commits the offense knew the act would be committed in the presence of a child commits domestic violence in the presence of a child, a Class D felony."**

and when so amended that said bill do pass.

(Reference is to HB 1738 as introduced.)

DVORAK, Chair

Committee Vote: yeas 10, nays 1.

HB 1738—LS 7952/DI 69+



C  
O  
P  
Y