

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 ENROLLED ACT No. 1210

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

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

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,

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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 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))**.

(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

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offense described in subsection (b).

SECTION 2. IC 31-33-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. The local child protection service shall give notice of the existence and location of photographs, x-rays, and physical medical examination reports to:

- (1) the prosecuting attorney; and
- (2) the appropriate law enforcement agency, **if the law enforcement agency has not already received the items described in this section under IC 31-33-10-3.**

SECTION 3. IC 31-33-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. Photographs, x-rays, or physical medical examination reports shall be made available to:

- (1) **the law enforcement agency having jurisdiction;**
- (~~1~~) (2) the county office of family and children;
- (~~2~~) (3) the prosecuting attorney;
- (~~3~~) (4) the guardian ad litem; or
- (~~4~~) (5) the court appointed special advocate appointed by the juvenile court;

for use in any judicial proceeding relating to the subject matter of a report made under this article and, to the extent permissible under the Indiana Rules of Trial Procedure, to the adverse party in any proceeding arising under this article.

SECTION 4. IC 31-33-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. All photographs taken and a summary of x-rays and other medical care shall be sent to the local child protection service **and, upon request, to a law enforcement agency that investigates the alleged child abuse or neglect,** at the time the written report is sent or as soon thereafter as possible. The local child protection service shall give notice of the existence of photographs, x-rays, and physical medical examination reports in accordance with IC 31-33-2-4.

SECTION 5. 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

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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;
- (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 felony; or**

~~(F)~~ (F) a comparable offense described in clauses (A) through ~~(D)~~ (E) 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:

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(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.

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

- (1) places the dependent in a situation that ~~may endanger his~~ **endangers the dependent's** life or health;
- (2) abandons or cruelly confines the dependent;
- (3) deprives the dependent of necessary support; or
- (4) deprives the dependent of education as required by law;

commits neglect of a dependent, a Class D felony.

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

is a Class B felony if it results in serious bodily injury

**(1) a Class C felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in bodily injury;**

**(2) a Class B felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in serious bodily injury; and**

**(3) a Class C felony if it is committed under subsection (a)(2) and consists of cruel or unusual confinement or abandonment.**

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

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

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

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

a person who transfers or receives any property in consideration for the termination of the care, custody, or control of a person's dependent child commits child selling, a Class D felony.

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