

SENATE BILL No. 478

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-14-14-5; IC 35-42-2-1.3; IC 35-50-2-7.

Synopsis: Domestic battery. Creates the offense of domestic battery, which is a battery resulting in bodily injury against a person who: (1) is or was a spouse of; (2) is or was living as if a spouse of; or (3) has a child in common with the person who commits the offense. Makes the offense a Class A misdemeanor for a first conviction and a Class D felony for subsequent convictions. Prohibits a court from providing misdemeanor sentencing treatment to a person who is convicted of a subsequent domestic battery. Requires that if a court finds that a noncustodial parent has been convicted of a domestic battery that was witnessed or heard by the noncustodial parent's child, the court shall limit the noncustodial parent's visitation with the child to supervised visitation for a specified period.

Effective: July 1, 1999.

Lubbers

January 13, 1999, read first time and referred to Committee on Judiciary.

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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.

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SENATE BILL No. 478



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 31-14-14-5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1999]: **Sec. 5. If a court finds that a noncustodial parent has been**
4 **convicted of domestic battery under IC 35-42-2-1.3 that was**
5 **witnessed or heard by the noncustodial parent's child, the court**
6 **shall order that the noncustodial parent's visitation with the child**
7 **must be supervised:**

- 8 (1) **for a period that is not less than one (1) year and not more**
9 **than two (2) years during the period immediately following**
10 **the domestic battery conviction; or**
11 (2) **until the child becomes emancipated;**
12 **whichever occurs first.**

13 SECTION 2. IC 35-42-2-1.3 IS ADDED TO THE INDIANA CODE
14 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 1999]: **Sec. 1.3. A person who knowingly or intentionally touches**
16 **a person who:**

- 17 (1) **is or was a spouse of the other person;**



1 **(2) is or was living as if a spouse of the other person; or**
 2 **(3) has a child in common with the other person;**
 3 **in a rude, insolent, or angry manner that results in bodily injury to**
 4 **the person described in subdivision (1), (2), or (3) commits**
 5 **domestic battery, a Class A misdemeanor. However, the offense is**
 6 **a Class D felony if the person has a previous, unrelated conviction**
 7 **under this section.**

8 SECTION 3. IC 35-50-2-7 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) A person who
 10 commits a Class D felony shall be imprisoned for a fixed term of one
 11 and one-half (1 1/2) years, with not more than one and one-half (1 1/2)
 12 years added for aggravating circumstances or not more than one (1)
 13 year subtracted for mitigating circumstances. In addition, he may be
 14 fined not more than ten thousand dollars (\$10,000).

15 (b) Notwithstanding subsection (a), if a person has committed a
 16 Class D felony, the court may enter judgment of conviction of a Class
 17 A misdemeanor and sentence accordingly. However, the court shall
 18 enter a judgment of conviction of a Class D felony if:

19 (1) the court finds that:

20 (A) the person has committed a prior, unrelated felony for
 21 which judgment was entered as a conviction of a Class A
 22 misdemeanor; and

23 (B) the prior felony was committed less than three (3) years
 24 before the second felony was committed;

25 **(2) the offense is domestic battery (IC 35-42-2-1.3);**

26 ~~(2) (3)~~ the offense is auto theft (IC 35-43-4-2.5); or

27 ~~(3) (4)~~ the offense is receiving stolen auto parts (IC 35-43-4-2.5).

28 The court shall enter in the record, in detail, the reason for its action
 29 whenever it exercises the power to enter judgment of conviction of a
 30 Class A misdemeanor granted in this subsection.

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