



April 4, 2003

---

---

**ENGROSSED**  
**SENATE BILL No. 362**

---

DIGEST OF SB 362 (Updated April 2, 2003 12:12 PM - DI 107)

**Citations Affected:** IC 16-35; IC 35-45; noncode.

**Synopsis:** Breastfeeding in public. Provides that a woman may discreetly breastfeed her child, if the child is less than three (3) years of age, anywhere the woman has a right to be. Provides that a woman breastfeeding her child is a defense for a woman charged with public indecency.

**Effective:** July 1, 2003.

---

---

**Simpson, Dillon, Hume, Drozda,  
Breux, Howard, Lanane, Rogers,  
Sipes, Kenley, Young R Michael**  
(HOUSE SPONSORS — WELCH, BECKER)

---

---

January 16, 2003, read first time and referred to Committee on Criminal, Civil and Public Policy.

February 13, 2003, amended, reported favorably — Do Pass.

February 17, 2003, read second time, ordered engrossed. Engrossed.

February 18, 2003, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 4, 2003, read first time and referred to Committee on Human Affairs.

April 3, 2003, amended, reported — Do Pass.

---

---

C  
o  
p  
y

ES 362—LS 7800/DI 105+



April 4, 2003

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

## ENGROSSED SENATE BILL No. 362

---

A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

1 SECTION 1. IC 16-35-6 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2003]:

4 **Chapter 6. Breastfeeding**  
5 **Sec. 1. Notwithstanding any other law, a woman may discreetly**  
6 **breastfeed her child, if the child is less than three (3) years of age,**  
7 **anywhere the woman has a right to be.**

8 SECTION 2. IC 35-45-4-1, AS AMENDED BY P.L.121-2000,  
9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2003]: Sec. 1. (a) **Except as provided in subsection (b),** a  
11 person who knowingly or intentionally, in a public place:

- 12 (1) engages in sexual intercourse;  
13 (2) engages in deviate sexual conduct;  
14 (3) appears in a state of nudity; or  
15 (4) fondles the person's genitals or the genitals of another person;  
16 commits public indecency, a Class A misdemeanor.  
17 (b) **It is a defense for a person accused of committing an act**

ES 362—LS 7800/DI 105+



C  
O  
P  
Y

1 **under subsection (a)(3) that the accused person was breastfeeding**  
2 **her child in a public place.**

3 (c) However, the offense under subsection (a) is a Class D felony if  
4 the person commits the offense:

5 (1) by appearing in the state of nudity with the intent to arouse the  
6 sexual desires of the person or another person in or on a public  
7 place where a child less than sixteen (16) years of age is present;

8 (2) in a public park and has a prior unrelated conviction that was  
9 entered after June 30, 2000, for an offense under this section;

10 (3) in or on school property and has a prior unrelated conviction  
11 that was entered after June 30, 2000, for an offense under this  
12 section; or

13 (4) in department of natural resources owned or managed property  
14 and has a prior unrelated conviction that was entered after June  
15 30, 2000, for an offense under this section.

16 (d) "Nudity" means the showing of the human male or female  
17 genitals, pubic area, or buttocks with less than a fully opaque covering,  
18 the showing of the female breast with less than a fully opaque covering  
19 of any part of the nipple, or the showing of covered male genitals in a  
20 discernibly turgid state.

21 (e) A person who, in a place other than a public place, with the  
22 intent to be seen by persons other than invitees and occupants of that  
23 place:

24 (1) engages in sexual intercourse;

25 (2) engages in deviate sexual conduct; or

26 (3) fondles the person's genitals or the genitals of another person;  
27 where the person can be seen by persons other than invitees and  
28 occupants of that place commits indecent exposure, a Class C  
29 misdemeanor.

30 SECTION 3. [EFFECTIVE JULY 1, 2003] IC 35-45-4-1, as  
31 amended by this act, applies to offenses committed after June 30,  
32 2003.

C  
o  
p  
y



SENATE MOTION

Mr. President: I move that Senators Dillon and Hume be added as coauthors of Senate Bill 362.

SIMPSON

---

SENATE MOTION

Mr. President: I move that Senator Drozda be added as coauthor of Senate Bill 362.

SIMPSON

C  
o  
p  
y



COMMITTEE REPORT

Mr. President: The Senate Committee on Criminal, Civil and Public Policy, to which was referred Senate Bill No. 362, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 7 through 17.

Delete page 2.

and when so amended that said bill do pass.

(Reference is to SB 362 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 11, Nays 0.

C  
o  
p  
y



SENATE MOTION

Mr. President: I move that Senators Breaux, Howard, Lanane, Rogers, Sipes and Kenley be added as coauthors of Senate Bill 362.

SIMPSON

---

SENATE MOTION

Mr. President: I move that Senator Young R Michael be added as coauthor of Senate Bill 362.

SIMPSON

C  
o  
p  
y



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred Senate Bill 362, 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, line 5, after "may" insert "**discreetly**".

Page 1, line 6, delete "child" and insert "**child, if the child is less than three (3) years of age,**".

Page 1, after line 6, begin a new paragraph and insert:

"SECTION 2. IC 35-45-4-1, AS AMENDED BY P.L.121-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) **Except as provided in subsection (b),** a person who knowingly or intentionally, in a public place:

- (1) engages in sexual intercourse;
- (2) engages in deviate sexual conduct;
- (3) appears in a state of nudity; or
- (4) fondles the person's genitals or the genitals of another person; commits public indecency, a Class A misdemeanor.

**(b) It is a defense for a person accused of committing an act under subsection (a)(3) that the accused person was breastfeeding her child in a public place.**

**(c)** However, the offense under subsection (a) is a Class D felony if the person commits the offense:

- (1) by appearing in the state of nudity with the intent to arouse the sexual desires of the person or another person in or on a public place where a child less than sixteen (16) years of age is present;
- (2) in a public park and has a prior unrelated conviction that was entered after June 30, 2000, for an offense under this section;
- (3) in or on school property and has a prior unrelated conviction that was entered after June 30, 2000, for an offense under this section; or
- (4) in department of natural resources owned or managed property and has a prior unrelated conviction that was entered after June 30, 2000, for an offense under this section.

~~(c)~~ **(d)** "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernibly turgid state.

~~(d)~~ **(e)** A person who, in a place other than a public place, with the intent to be seen by persons other than invitees and occupants of that place:

ES 362—LS 7800/DI 105+



C  
O  
P  
Y

- (1) engages in sexual intercourse;
  - (2) engages in deviate sexual conduct; or
  - (3) fondles the person's genitals or the genitals of another person;
- where the person can be seen by persons other than invitees and occupants of that place commits indecent exposure, a Class C misdemeanor.

**SECTION 3. [EFFECTIVE JULY 1, 2003] IC 35-45-4-1, as amended by this act, applies to offenses committed after June 30, 2003."**

and when so amended that said bill do pass.

(Reference is to SB 362 as printed February 14, 2003.)

SUMMERS, Chair

Committee Vote: yeas 13, nays 0.

C  
o  
p  
y

