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# SENATE BILL No. 300

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-5-2-8; IC 31-19-9-10; IC 31-34-21-5.6; IC 35-46-1-4.

**Synopsis:** Neglect of a dependent. Makes neglect of a dependent a Class A felony if the neglect results in the death of the dependent who is less than 14 years of age and is committed by a person at least 18 years of age. Provides that a school corporation may refuse to employ a person convicted of neglect of a dependent as a Class A felony. Provides that consent to adoption is not required from a parent convicted of neglect of a dependent as a Class A felony. Provides that reasonable attempts at reunification in a child in need of services proceeding are not required if a parent, guardian, or custodian has been convicted of neglect of a dependent as a Class A felony.

**Effective:** July 1, 2003.

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January 15, 2003, read first time and referred to Committee on Criminal, Civil and Public Policy.

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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.

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# SENATE BILL No. 300



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, AS AMENDED BY P.L.123-2002,  
2 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2003]: Sec. 8. (a) This section applies to:  
4 (1) a school corporation; and  
5 (2) an entity:  
6 (A) with which the school corporation contracts for services;  
7 and  
8 (B) that has employees who are likely to have direct, ongoing  
9 contact with children within the scope of the employees'  
10 employment.  
11 (b) A school corporation or entity may use information obtained  
12 under section 7 of this chapter concerning an individual's conviction for  
13 one (1) of the following offenses as grounds to not employ or contract  
14 with the individual:  
15 (1) Murder (IC 35-42-1-1).  
16 (2) Causing suicide (IC 35-42-1-2).  
17 (3) Assisting suicide (IC 35-42-1-2.5).



- 1 (4) Voluntary manslaughter (IC 35-42-1-3).  
2 (5) Reckless homicide (IC 35-42-1-5).  
3 (6) Battery (IC 35-42-2-1) unless ten (10) years have elapsed from  
4 the date the individual was discharged from probation,  
5 imprisonment, or parole, whichever is later.  
6 (7) Aggravated battery (IC 35-42-2-1.5).  
7 (8) Kidnapping (IC 35-42-3-2).  
8 (9) Criminal confinement (IC 35-42-3-3).  
9 (10) A sex offense under IC 35-42-4.  
10 (11) Carjacking (IC 35-42-5-2).  
11 (12) Arson (IC 35-43-1-1) unless ten (10) years have elapsed from  
12 the date the individual was discharged from probation,  
13 imprisonment, or parole, whichever is later.  
14 (13) Incest (IC 35-46-1-3).  
15 (14) Neglect of a dependent as a **Class A felony**  
16 **(IC 35-46-1-4(b)(3))** or Class B felony (IC 35-46-1-4(b)(2))  
17 unless ten (10) years have elapsed from the date the individual  
18 was discharged from probation, imprisonment, or parole,  
19 whichever is later.  
20 (15) Child selling (IC 35-46-1-4(d)).  
21 (16) Contributing to the delinquency of a minor (IC 35-46-1-8)  
22 unless ten (10) years have elapsed from the date the individual  
23 was discharged from probation, imprisonment, or parole,  
24 whichever is later.  
25 (17) An offense involving a weapon under IC 35-47 or IC 35-47.5  
26 unless ten (10) years have elapsed from the date the individual  
27 was discharged from probation, imprisonment, or parole,  
28 whichever is later.  
29 (18) An offense relating to controlled substances under  
30 IC 35-48-4 unless ten (10) years have elapsed from the date the  
31 individual was discharged from probation, imprisonment, or  
32 parole, whichever is later.  
33 (19) An offense relating to material or a performance that is  
34 harmful to minors or obscene under IC 35-49-3 unless ten (10)  
35 years have elapsed from the date the individual was discharged  
36 from probation, imprisonment, or parole, whichever is later.  
37 (20) An offense relating to operating a motor vehicle while  
38 intoxicated under IC 9-30-5 unless five (5) years have elapsed  
39 from the date the individual was discharged from probation,  
40 imprisonment, or parole, whichever is later.  
41 (21) An offense that is substantially equivalent to any of the  
42 offenses listed in this subsection in which the judgment of

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1 conviction was entered under the law of any other jurisdiction.

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

7 SECTION 2. IC 31-19-9-10, AS AMENDED BY P.L.222-2001,  
8 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2003]: Sec. 10. A court shall determine that consent to  
10 adoption is not required from a parent if:

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

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

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

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

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

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

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

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

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

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

24 (J) battery as a Class A felony (IC 35-42-2-1(a)(5)) or Class B  
25 felony (IC 35-42-2-1(a)(4)); or

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

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

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

34 SECTION 3. IC 31-34-21-5.6, AS AMENDED BY P.L.217-2001,  
35 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 2003]: Sec. 5.6. (a) A court may make a finding described in  
37 this section at any phase of a child in need of services proceeding.

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

42 (1) A parent, guardian, or custodian of a child who is a child in

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

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- 1 (C) any comparable law described in clause (A) or (B) in any  
 2 other state, territory, or country.  
 3 (5) The child is an abandoned infant, provided that the court:  
 4 (A) has appointed a guardian ad litem or court appointed  
 5 special advocate for the child; and  
 6 (B) after receiving a written report and recommendation from  
 7 the guardian ad litem or court appointed special advocate, and  
 8 after a hearing, finds that reasonable efforts to locate the  
 9 child's parents or reunify the child's family would not be in the  
 10 best interests of the child.

11 SECTION 4, IC 35-46-1-4, AS AMENDED BY P.L.133-2000,  
 12 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2003]: Sec. 4. (a) A person having the care of a dependent,  
 14 whether assumed voluntarily or because of a legal obligation, who  
 15 knowingly or intentionally:

- 16 (1) places the dependent in a situation that endangers the  
 17 dependent's life or health;  
 18 (2) abandons or cruelly confines the dependent;  
 19 (3) deprives the dependent of necessary support; or  
 20 (4) deprives the dependent of education as required by law;  
 21 commits neglect of a dependent, a Class D felony.

22 (b) However, the offense is:

- 23 (1) a Class C felony if it is committed under subsection (a)(1),  
 24 (a)(2), or (a)(3) and results in bodily injury;  
 25 (2) a Class B felony if it is committed under subsection (a)(1),  
 26 (a)(2), or (a)(3) and results in serious bodily injury; ~~and~~  
 27 **(3) a Class A felony if it is committed under subsection (a)(1),**  
 28 **(a)(2), or (a)(3) by a person at least eighteen (18) years of age**  
 29 **and results in the death of a dependent who is less than**  
 30 **fourteen (14) years of age; and**  
 31 ~~(4)~~ (4) a Class C felony if it is committed under subsection (a)(2)  
 32 and consists of cruel or unusual confinement or abandonment.

33 (c) It is a defense to a prosecution based on an alleged act under this  
 34 section that:

- 35 (1) the accused person left a dependent child who was, at the time  
 36 the alleged act occurred, not more than thirty (30) days of age  
 37 with an emergency medical provider who took custody of the  
 38 child under IC 31-34-2.5 when:  
 39 (A) the prosecution is based solely on the alleged act of  
 40 leaving the child with the emergency medical services  
 41 provider; and  
 42 (B) the alleged act did not result in bodily injury or serious

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