
HOUSE BILL No. 1245

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 dependent. Makes neglect of a dependent a Class A felony instead of a Class D felony if the neglect results in the death of a dependent who is less than 14 years of age and is committed by a person at least 18 years of age. Allows a school corporation to 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, 2004.

Van Haften

January 15, 2004, read first time and referred to Committee on Judiciary.

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Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

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HOUSE BILL No. 1245



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, 2004]: 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, 2004]: 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 **felony** 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 felony** or Class B
 - 22 felony (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.1-2003,
35 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2004]: 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) as a Class C felony;
- 30 (F) neglect of a dependent (IC 35-46-1-4) as a **Class A felony**
- 31 **or** Class B felony; or
- 32 (G) a comparable offense described in clauses (A) through (F)
- 33 in another state, territory, or country;
- 34 against a child described in IC 31-35-3-4(2)(B).
- 35 (4) The parental rights of a parent with respect to a biological or
- 36 adoptive sibling of a child who is a child in need of services have
- 37 been involuntarily terminated by a court under:
- 38 (A) IC 31-35-2 (involuntary termination involving a
- 39 delinquent child or a child in need of services);
- 40 (B) IC 31-35-3 (involuntary termination involving a
- 41 individual convicted of a criminal offense); or
- 42 (C) any comparable law described in clause (A) or (B) in any

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

10 SECTION 4. IC 35-46-1-4, AS AMENDED BY P.L.133-2000,
 11 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2004]: Sec. 4. (a) A person having the care of a dependent,
 13 whether assumed voluntarily or because of a legal obligation, who
 14 knowingly or intentionally:

- 15 (1) places the dependent in a situation that endangers the
- 16 dependent's life or health;
- 17 (2) abandons or cruelly confines the dependent;
- 18 (3) deprives the dependent of necessary support; or
- 19 (4) deprives the dependent of education as required by law;

20 commits neglect of a dependent, a Class D felony.

21 (b) However, the offense is:

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

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

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

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1 (2) the accused person, in the legitimate practice of his religious
 2 belief, provided treatment by spiritual means through prayer, in
 3 lieu of medical care, to his dependent.
 4 (d) Except for property transferred or received:
 5 (1) under a court order made in connection with a proceeding
 6 under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5
 7 or IC 31-6-5 before their repeal); or
 8 (2) under IC 35-46-1-9(b);
 9 a person who transfers or receives any property in consideration for the
 10 termination of the care, custody, or control of a person's dependent
 11 child commits child selling, a Class D felony.
 12 SECTION 5. [EFFECTIVE JULY 1, 2004] **IC 35-46-1-4, as**
 13 **amended by this act, applies only to offenses committed after June**
 14 **30, 2004.**

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