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# SENATE BILL No. 91

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-2-1-9; IC 34-24-5; IC 35-38-1-7.1; IC 35-41-1-13.5.

**Synopsis:** Bias crimes. Requires law enforcement officers to receive training in identifying, responding to, and reporting bias crimes. Allows an individual who suffers a personal injury or property damage caused by a criminal offense to bring a civil action to recover damages, including punitive damages, if the person who committed the offense knowingly or intentionally selected the victim because of: (1) the victim's actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender identity, sex, or homelessness; or (2) the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender identity, or sex of an individual affiliated or associated with the victim. Makes commission of a crime because of: (1) the victim's actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender identity, sex, or homelessness; or (2) the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender identity, or sex of an individual affiliated or associated with the victim; an aggravating circumstance that may be considered by a judge when the judge imposes a sentence for the crime. Defines "homeless individual".

**Effective:** July 1, 2009.

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January 7, 2009, read first time and referred to Committee on Judiciary.

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First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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## SENATE BILL No. 91



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 5-2-1-9, AS AMENDED BY P.L.128-2008,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2009]: Sec. 9. (a) The board shall adopt in accordance with  
4 IC 4-22-2 all necessary rules to carry out the provisions of this chapter.  
5 The rules, which shall be adopted only after necessary and proper  
6 investigation and inquiry by the board, shall include the establishment  
7 of the following:

8 (1) Minimum standards of physical, educational, mental, and  
9 moral fitness which shall govern the acceptance of any person for  
10 training by any law enforcement training school or academy  
11 meeting or exceeding the minimum standards established  
12 pursuant to this chapter.

13 (2) Minimum standards for law enforcement training schools  
14 administered by towns, cities, counties, law enforcement training  
15 centers, agencies, or departments of the state.

16 (3) Minimum standards for courses of study, attendance  
17 requirements, equipment, and facilities for approved town, city,



- 1 county, and state law enforcement officer, police reserve officer,
- 2 and conservation reserve officer training schools.
- 3 (4) Minimum standards for a course of study on cultural diversity
- 4 awareness that must be required for each person accepted for
- 5 training at a law enforcement training school or academy.
- 6 (5) Minimum qualifications for instructors at approved law
- 7 enforcement training schools.
- 8 (6) Minimum basic training requirements which law enforcement
- 9 officers appointed to probationary terms shall complete before
- 10 being eligible for continued or permanent employment.
- 11 (7) Minimum basic training requirements which law enforcement
- 12 officers appointed on other than a permanent basis shall complete
- 13 in order to be eligible for continued employment or permanent
- 14 appointment.
- 15 (8) Minimum basic training requirements which law enforcement
- 16 officers appointed on a permanent basis shall complete in order
- 17 to be eligible for continued employment.
- 18 (9) Minimum basic training requirements for each person
- 19 accepted for training at a law enforcement training school or
- 20 academy that include six (6) hours of training in interacting with
- 21 persons with mental illness, addictive disorders, mental
- 22 retardation, and developmental disabilities, to be provided by
- 23 persons approved by the secretary of family and social services
- 24 and the board.
- 25 (10) Minimum standards for a course of study on human and
- 26 sexual trafficking that must be required for each person accepted
- 27 for training at a law enforcement training school or academy and
- 28 for inservice training programs for law enforcement officers. The
- 29 course must cover the following topics:
- 30 (A) Examination of the human and sexual trafficking laws
- 31 (IC 35-42-3.5).
- 32 (B) Identification of human and sexual trafficking.
- 33 (C) Communicating with traumatized persons.
- 34 (D) Therapeutically appropriate investigative techniques.
- 35 (E) Collaboration with federal law enforcement officials.
- 36 (F) Rights of and protections afforded to victims.
- 37 (G) Providing documentation that satisfies the Declaration of
- 38 Law Enforcement Officer for Victim of Trafficking in Persons
- 39 (Form I-914, Supplement B) requirements established under
- 40 federal law.
- 41 (H) The availability of community resources to assist human
- 42 and sexual trafficking victims.

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1 (b) Except as provided in subsection (l), a law enforcement officer  
 2 appointed after July 5, 1972, and before July 1, 1993, may not enforce  
 3 the laws or ordinances of the state or any political subdivision unless  
 4 the officer has, within one (1) year from the date of appointment,  
 5 successfully completed the minimum basic training requirements  
 6 established under this chapter by the board. If a person fails to  
 7 successfully complete the basic training requirements within one (1)  
 8 year from the date of employment, the officer may not perform any of  
 9 the duties of a law enforcement officer involving control or direction  
 10 of members of the public or exercising the power of arrest until the  
 11 officer has successfully completed the training requirements. This  
 12 subsection does not apply to any law enforcement officer appointed  
 13 before July 6, 1972, or after June 30, 1993.

14 (c) Military leave or other authorized leave of absence from law  
 15 enforcement duty during the first year of employment after July 6,  
 16 1972, shall toll the running of the first year, which shall be calculated  
 17 by the aggregate of the time before and after the leave, for the purposes  
 18 of this chapter.

19 (d) Except as provided in subsections (e), (l), (r), and (s), a law  
 20 enforcement officer appointed to a law enforcement department or  
 21 agency after June 30, 1993, may not:

- 22 (1) make an arrest;
- 23 (2) conduct a search or a seizure of a person or property; or
- 24 (3) carry a firearm;

25 unless the law enforcement officer successfully completes, at a board  
 26 certified law enforcement academy or at a law enforcement training  
 27 center under section 10.5 or 15.2 of this chapter, the basic training  
 28 requirements established by the board under this chapter.

29 (e) This subsection does not apply to:

- 30 (1) a gaming agent employed as a law enforcement officer by the  
 31 Indiana gaming commission; or
- 32 (2) an:
  - 33 (A) attorney; or
  - 34 (B) investigator;

35 designated by the securities commissioner as a police officer of  
 36 the state under IC 23-2-1-15(i).

37 Before a law enforcement officer appointed after June 30, 1993,  
 38 completes the basic training requirements, the law enforcement officer  
 39 may exercise the police powers described in subsection (d) if the  
 40 officer successfully completes the pre-basic course established in  
 41 subsection (f). Successful completion of the pre-basic course authorizes  
 42 a law enforcement officer to exercise the police powers described in

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1 subsection (d) for one (1) year after the date the law enforcement  
2 officer is appointed.

3 (f) The board shall adopt rules under IC 4-22-2 to establish a  
4 pre-basic course for the purpose of training:

5 (1) law enforcement officers;

6 (2) police reserve officers (as described in IC 36-8-3-20); and

7 (3) conservation reserve officers (as described in IC 14-9-8-27);  
8 regarding the subjects of arrest, search and seizure, the lawful use of  
9 force, and the operation of an emergency vehicle. The pre-basic course  
10 must be offered on a periodic basis throughout the year at regional sites  
11 statewide. The pre-basic course must consist of at least forty (40) hours  
12 of course work. The board may prepare the classroom part of the  
13 pre-basic course using available technology in conjunction with live  
14 instruction. The board shall provide the course material, the instructors,  
15 and the facilities at the regional sites throughout the state that are used  
16 for the pre-basic course. In addition, the board may certify pre-basic  
17 courses that may be conducted by other public or private training  
18 entities, including postsecondary educational institutions.

19 (g) The board shall adopt rules under IC 4-22-2 to establish a  
20 mandatory inservice training program for police officers. After June 30,  
21 1993, a law enforcement officer who has satisfactorily completed basic  
22 training and has been appointed to a law enforcement department or  
23 agency on either a full-time or part-time basis is not eligible for  
24 continued employment unless the officer satisfactorily completes the  
25 mandatory inservice training requirements established by rules adopted  
26 by the board. Inservice training must include training in interacting  
27 with persons with mental illness, addictive disorders, mental  
28 retardation, and developmental disabilities, to be provided by persons  
29 approved by the secretary of family and social services and the board,  
30 and training concerning human and sexual trafficking. The board may  
31 approve courses offered by other public or private training entities,  
32 including postsecondary educational institutions, as necessary in order  
33 to ensure the availability of an adequate number of inservice training  
34 programs. The board may waive an officer's inservice training  
35 requirements if the board determines that the officer's reason for  
36 lacking the required amount of inservice training hours is due to either  
37 of the following:

38 (1) An emergency situation.

39 (2) The unavailability of courses.

40 (h) The board shall also adopt rules establishing a town marshal  
41 basic training program, subject to the following:

42 (1) The program must require fewer hours of instruction and class

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- 1 attendance and fewer courses of study than are required for the  
2 mandated basic training program.
- 3 (2) Certain parts of the course materials may be studied by a  
4 candidate at the candidate's home in order to fulfill requirements  
5 of the program.
- 6 (3) Law enforcement officers successfully completing the  
7 requirements of the program are eligible for appointment only in  
8 towns employing the town marshal system (IC 36-5-7) and having  
9 not more than one (1) marshal and two (2) deputies.
- 10 (4) The limitation imposed by subdivision (3) does not apply to an  
11 officer who has successfully completed the mandated basic  
12 training program.
- 13 (5) The time limitations imposed by subsections (b) and (c) for  
14 completing the training are also applicable to the town marshal  
15 basic training program.
- 16 (i) The board shall adopt rules under IC 4-22-2 to establish an  
17 executive training program. The executive training program must  
18 include training in the following areas:
- 19 (1) Liability.
- 20 (2) Media relations.
- 21 (3) Accounting and administration.
- 22 (4) Discipline.
- 23 (5) Department policy making.
- 24 (6) Lawful use of force.
- 25 (7) Department programs.
- 26 (8) Emergency vehicle operation.
- 27 (9) Cultural diversity.
- 28 (j) A police chief shall apply for admission to the executive training  
29 program within two (2) months of the date the police chief initially  
30 takes office. A police chief must successfully complete the executive  
31 training program within six (6) months of the date the police chief  
32 initially takes office. However, if space in the executive training  
33 program is not available at a time that will allow completion of the  
34 executive training program within six (6) months of the date the police  
35 chief initially takes office, the police chief must successfully complete  
36 the next available executive training program that is offered after the  
37 police chief initially takes office.
- 38 (k) A police chief who fails to comply with subsection (j) may not  
39 continue to serve as the police chief until completion of the executive  
40 training program. For the purposes of this subsection and subsection  
41 (j), "police chief" refers to:
- 42 (1) the police chief of any city;

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1 (2) the police chief of any town having a metropolitan police  
2 department; and  
3 (3) the chief of a consolidated law enforcement department  
4 established under IC 36-3-1-5.1.

5 A town marshal is not considered to be a police chief for these  
6 purposes, but a town marshal may enroll in the executive training  
7 program.

8 (l) A fire investigator in the division of fire and building safety  
9 appointed after December 31, 1993, is required to comply with the  
10 basic training standards established under this chapter.

11 (m) The board shall adopt rules under IC 4-22-2 to establish a  
12 program to certify handgun safety courses, including courses offered  
13 in the private sector, that meet standards approved by the board for  
14 training probation officers in handgun safety as required by  
15 IC 11-13-1-3.5(3).

16 (n) The board shall adopt rules under IC 4-22-2 to establish a  
17 refresher course for an officer who:

18 (1) is hired by an Indiana law enforcement department or agency  
19 as a law enforcement officer;

20 (2) has not been employed as a law enforcement officer for at  
21 least two (2) years and less than six (6) years before the officer is  
22 hired under subdivision (1) due to the officer's resignation or  
23 retirement; and

24 (3) completed at any time a basic training course certified by the  
25 board before the officer is hired under subdivision (1).

26 (o) The board shall adopt rules under IC 4-22-2 to establish a  
27 refresher course for an officer who:

28 (1) is hired by an Indiana law enforcement department or agency  
29 as a law enforcement officer;

30 (2) has not been employed as a law enforcement officer for at  
31 least six (6) years and less than ten (10) years before the officer  
32 is hired under subdivision (1) due to the officer's resignation or  
33 retirement;

34 (3) is hired under subdivision (1) in an upper level policymaking  
35 position; and

36 (4) completed at any time a basic training course certified by the  
37 board before the officer is hired under subdivision (1).

38 A refresher course established under this subsection may not exceed  
39 one hundred twenty (120) hours of course work. All credit hours  
40 received for successfully completing the police chief executive training  
41 program under subsection (i) shall be applied toward the refresher  
42 course credit hour requirements.

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1 (p) Subject to subsection (q), an officer to whom subsection (n) or  
 2 (o) applies must successfully complete the refresher course described  
 3 in subsection (n) or (o) not later than six (6) months after the officer's  
 4 date of hire, or the officer loses the officer's powers of:

- 5 (1) arrest;  
 6 (2) search; and  
 7 (3) seizure.

8 (q) A law enforcement officer who has worked as a law enforcement  
 9 officer for less than twenty-five (25) years before being hired under  
 10 subsection (n)(1) or (o)(1) is not eligible to attend the refresher course  
 11 described in subsection (n) or (o) and must repeat the full basic training  
 12 course to regain law enforcement powers. However, a law enforcement  
 13 officer who has worked as a law enforcement officer for at least  
 14 twenty-five (25) years before being hired under subsection (n)(1) or  
 15 (o)(1) and who otherwise satisfies the requirements of subsection (n)  
 16 or (o) is not required to repeat the full basic training course to regain  
 17 law enforcement power but shall attend the refresher course described  
 18 in subsection (n) or (o) and the pre-basic training course established  
 19 under subsection (f).

20 (r) This subsection applies only to a gaming agent employed as a  
 21 law enforcement officer by the Indiana gaming commission. A gaming  
 22 agent appointed after June 30, 2005, may exercise the police powers  
 23 described in subsection (d) if:

- 24 (1) the agent successfully completes the pre-basic course  
 25 established in subsection (f); and  
 26 (2) the agent successfully completes any other training courses  
 27 established by the Indiana gaming commission in conjunction  
 28 with the board.

29 (s) This subsection applies only to a securities enforcement officer  
 30 designated as a law enforcement officer by the securities  
 31 commissioner. A securities enforcement officer may exercise the police  
 32 powers described in subsection (d) if:

- 33 (1) the securities enforcement officer successfully completes the  
 34 pre-basic course established in subsection (f); and  
 35 (2) the securities enforcement officer successfully completes any  
 36 other training courses established by the securities commissioner  
 37 in conjunction with the board.

38 (t) As used in this section, "upper level policymaking position"  
 39 refers to the following:

- 40 (1) If the authorized size of the department or town marshal  
 41 system is not more than ten (10) members, the term refers to the  
 42 position held by the police chief or town marshal.

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- 1 (2) If the authorized size of the department or town marshal
- 2 system is more than ten (10) members but less than fifty-one (51)
- 3 members, the term refers to:
- 4 (A) the position held by the police chief or town marshal; and
- 5 (B) each position held by the members of the police
- 6 department or town marshal system in the next rank and pay
- 7 grade immediately below the police chief or town marshal.
- 8 (3) If the authorized size of the department or town marshal
- 9 system is more than fifty (50) members, the term refers to:
- 10 (A) the position held by the police chief or town marshal; and
- 11 (B) each position held by the members of the police
- 12 department or town marshal system in the next two (2) ranks
- 13 and pay grades immediately below the police chief or town
- 14 marshal.

**(u) This subsection applies to the following:**

- 15
- 16 (1) **Minimum basic training program required under**
- 17 **subsection (d).**
- 18 (2) **Mandatory inservice training program required under**
- 19 **subsection (g).**
- 20 (3) **Town marshal basic training program required under**
- 21 **subsection (h).**
- 22 (4) **Police chief executive training program required under**
- 23 **subsection (j).**
- 24 (5) **Any other training program for which the board adopts**
- 25 **standards.**

26 **After December 31, 2009, the standards adopted by the board for**  
27 **each program described in this subsection must include**  
28 **requirements for mandatory training in identifying, responding to,**  
29 **and reporting bias crimes in which the person who committed the**  
30 **offense selected the victim who was injured or whose property was**  
31 **damaged or otherwise affected because of the color, creed,**  
32 **disability, national origin, race, religion, sexual orientation, gender**  
33 **identity, or sex of the victim or an individual affiliated or**  
34 **associated with the victim or because the victim was a homeless**  
35 **individual (as defined in IC 35-41-1-13.5).**

36 SECTION 2. IC 34-24-5 IS ADDED TO THE INDIANA CODE AS  
37 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
38 1, 2009]:

**Chapter 5. Civil Action for Victims of Bias Crime Offenders**

40 **Sec. 1. As used in this chapter, "bias crime offender" means a**  
41 **person:**

- 42 (1) **who:**

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(A) was convicted of committing a crime that injured an individual; and

(B) knowingly or intentionally selected the individual as the victim of the crime because:

(i) of the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender identity, or sex of the victim;

(ii) of the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender identity, or sex of an individual affiliated or associated with the victim; or

(iii) the victim was a homeless individual; or

(2) who:

(A) was convicted of committing a crime that damaged or otherwise affected property; and

(B) knowingly or intentionally damaged or otherwise affected the property because:

(i) of the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender identity, or sex of the individual who owned or occupied the property;

(ii) of the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender identity, or sex of an individual affiliated or associated with the individual who owned or occupied the property; or

(iii) the individual who owned or occupied the property was a homeless individual.

Sec. 2. (a) As used in this chapter, "homeless individual" means an individual who:

(1) lacks a fixed, regular, and adequate nighttime residence; or

(2) uses one (1) of the following as a primary nighttime residence:

(A) A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including a motel, a hotel, a congregate shelter, or transitional housing.

(B) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(b) The term does not include an individual imprisoned or

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1 otherwise detained under state or federal law.

2 **Sec. 3. If an individual suffers a pecuniary loss because of the**  
3 **commission of a crime by a bias crime offender, the individual may**  
4 **bring a civil action against the person who caused the loss.**

5 **Sec. 4. An individual bringing an action under section 3 of this**  
6 **chapter may seek to recover the following:**

- 7 (1) **Actual, compensatory, and consequential damages.**
- 8 (2) **Punitive damages in an amount not more than three (3)**  
9 **times the person's actual damages.**
- 10 (3) **The costs of the action.**
- 11 (4) **Reasonable attorney's fees.**

12 **Sec. 5. (a) Except as provided in subsection (b), this chapter does**  
13 **not limit a person's rights or remedies under any other state or**  
14 **federal law.**

15 **(b) A person may not recover damages under IC 34-24-3 and**  
16 **this chapter for the same crime.**

17 SECTION 3. IC 35-38-1-7.1, AS AMENDED BY P.L.119-2008,  
18 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
19 JULY 1, 2009]: Sec. 7.1. (a) In determining what sentence to impose  
20 for a crime, the court may consider the following aggravating  
21 circumstances:

- 22 (1) The harm, injury, loss, or damage suffered by the victim of an  
23 offense was:
  - 24 (A) significant; and
  - 25 (B) greater than the elements necessary to prove the  
26 commission of the offense.
- 27 (2) The person has a history of criminal or delinquent behavior.
- 28 (3) The victim of the offense was less than twelve (12) years of  
29 age or at least sixty-five (65) years of age at the time the person  
30 committed the offense.
- 31 (4) The person:
  - 32 (A) committed a crime of violence (IC 35-50-1-2); and
  - 33 (B) knowingly committed the offense in the presence or within  
34 hearing of an individual who:
    - 35 (i) was less than eighteen (18) years of age at the time the  
36 person committed the offense; and
    - 37 (ii) is not the victim of the offense.
- 38 (5) The person violated a protective order issued against the  
39 person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or  
40 IC 34-4-5.1 before their repeal), a workplace violence restraining  
41 order issued against the person under IC 34-26-6, or a no contact  
42 order issued against the person.

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- 1 (6) The person has recently violated the conditions of any
- 2 probation, parole, pardon, community corrections placement, or
- 3 pretrial release granted to the person.
- 4 (7) The victim of the offense was:
- 5 (A) a person with a disability (as defined in IC 27-7-6-12), and
- 6 the defendant knew or should have known that the victim was
- 7 a person with a disability; or
- 8 (B) mentally or physically infirm.
- 9 (8) The person was in a position having care, custody, or control
- 10 of the victim of the offense.
- 11 (9) The injury to or death of the victim of the offense was the
- 12 result of shaken baby syndrome (as defined in IC 16-41-40-2).
- 13 (10) The person threatened to harm the victim of the offense or a
- 14 witness if the victim or witness told anyone about the offense.
- 15 (11) The person:
- 16 (A) committed trafficking with an inmate under IC 35-44-3-9;
- 17 and
- 18 (B) is an employee of the penal facility.
- 19 **(12) The person who committed the offense knowingly or**
- 20 **intentionally selected the victim who was injured by the**
- 21 **offense or whose property was damaged or otherwise affected**
- 22 **by the offense because:**
- 23 **(A) of the actual or perceived color, creed, disability,**
- 24 **national origin, race, religion, sexual orientation, gender**
- 25 **identity, or sex of the injured individual or of the owner or**
- 26 **occupant of the property;**
- 27 **(B) of the actual or perceived color, creed, disability,**
- 28 **national origin, race, religion, sexual orientation, gender**
- 29 **identity, or sex of an individual affiliated or associated**
- 30 **with the injured individual or of the owner or occupant of**
- 31 **the property; or**
- 32 **(C) the injured individual or the owner or occupant of the**
- 33 **property was a homeless individual.**
- 34 (b) The court may consider the following factors as mitigating
- 35 circumstances or as favoring suspending the sentence and imposing
- 36 probation:
- 37 (1) The crime neither caused nor threatened serious harm to
- 38 persons or property, or the person did not contemplate that it
- 39 would do so.
- 40 (2) The crime was the result of circumstances unlikely to recur.
- 41 (3) The victim of the crime induced or facilitated the offense.
- 42 (4) There are substantial grounds tending to excuse or justify the

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- 1 crime, though failing to establish a defense.
- 2 (5) The person acted under strong provocation.
- 3 (6) The person has no history of delinquency or criminal activity,
- 4 or the person has led a law-abiding life for a substantial period
- 5 before commission of the crime.
- 6 (7) The person is likely to respond affirmatively to probation or
- 7 short term imprisonment.
- 8 (8) The character and attitudes of the person indicate that the
- 9 person is unlikely to commit another crime.
- 10 (9) The person has made or will make restitution to the victim of
- 11 the crime for the injury, damage, or loss sustained.
- 12 (10) Imprisonment of the person will result in undue hardship to
- 13 the person or the dependents of the person.
- 14 (11) The person was convicted of a crime involving the use of
- 15 force against a person who had repeatedly inflicted physical or
- 16 sexual abuse upon the convicted person and evidence shows that
- 17 the convicted person suffered from the effects of battery as a
- 18 result of the past course of conduct of the individual who is the
- 19 victim of the crime for which the person was convicted.
- 20 (c) The criteria listed in subsections (a) and (b) do not limit the
- 21 matters that the court may consider in determining the sentence.
- 22 (d) A court may impose any sentence that is:
- 23 (1) authorized by statute; and
- 24 (2) permissible under the Constitution of the State of Indiana;
- 25 regardless of the presence or absence of aggravating circumstances or
- 26 mitigating circumstances.
- 27 SECTION 4. IC 35-41-1-13.5 IS ADDED TO THE INDIANA
- 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 29 [EFFECTIVE JULY 1, 2009]: **Sec. 13.5. (a) "Homeless individual"**
- 30 **means an individual who:**
- 31 **(1) lacks a fixed, regular, and adequate nighttime residence;**
- 32 **or**
- 33 **(2) uses one (1) of the following as a primary nighttime**
- 34 **residence:**
- 35 **(A) A supervised publicly or privately operated shelter**
- 36 **designed to provide temporary living accommodations,**
- 37 **including a motel, a hotel, a congregate shelter, or**
- 38 **transitional housing.**
- 39 **(B) A public or private place not designed for, or**
- 40 **ordinarily used as, a regular sleeping accommodation for**
- 41 **human beings.**
- 42 **(b) The term does not include an individual imprisoned or**

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1 **otherwise detained under state or federal law.**  
2 SECTION 5. [EFFECTIVE JULY 1, 2009] (a) IC 34-24-5, as  
3 **added by this act, applies only to causes of action that accrue after**  
4 **June 30, 2009.**  
5 (b) IC 35-38-1-7.1, as amended by this act, applies only to  
6 **offenses committed after June 30, 2009.**

**C**  
**O**  
**P**  
**Y**

