
SENATE BILL No. 350

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-42-3; IC 35-43-5-1.

Synopsis: Removal by deceit. Makes criminal confinement committed against a person who is mentally disabled a Class C felony. Provides that a person who, by means of deceit, removes a person who is less than 14 years of age or who is mentally disabled from one location to another commits removal by deceit, a Class C felony. (The current law concerning criminal removal by fraud or enticement has been declared unconstitutional by the Indiana court of appeals.) Specifies that "identifying information" for purposes of identity deception includes identifying information that identifies a person. (Current law includes only identifying information that identifies an individual.)

Effective: July 1, 2009.

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January 8, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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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. 350



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 35-42-3-3, AS AMENDED BY P.L.70-2006,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 3. (a) A person who knowingly or intentionally:
4 (1) confines another person without the other person's consent; or
5 (2) removes another person by ~~fraud; enticement~~, force or threat
6 of force from one (1) place to another;
7 commits criminal confinement. Except as provided in subsection (b),
8 the offense of criminal confinement is a Class D felony.
9 (b) The offense of criminal confinement defined in subsection (a)
10 is:
11 (1) a Class C felony if:
12 (A) the person confined or removed is:
13 (i) less than fourteen (14) years of age and **the confining or**
14 **removing person** is not the ~~confining or removing person's~~
15 ~~child; parent, guardian, or custodian of the person less~~
16 **than fourteen (14) years of age; or**
17 (ii) **so mentally disabled or deficient that the person**



1 **cannot consent to being confined or removed and the**
 2 **confining or removing person is not the parent,**
 3 **guardian, or custodian of the mentally disabled or**
 4 **deficient person;**
 5 (B) it is committed by using a vehicle; or
 6 (C) it results in bodily injury to a person other than the
 7 confining or removing person; and
 8 (2) a Class B felony if it:
 9 (A) is committed while armed with a deadly weapon;
 10 (B) results in serious bodily injury to a person other than the
 11 confining or removing person; or
 12 (C) is committed on an aircraft.

13 SECTION 2. IC 35-42-3-3.5 IS ADDED TO THE INDIANA CODE
 14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 15 1, 2009]: **Sec. 3.5. (a) This section does not apply to a parent,**
 16 **guardian, or custodian of, or a person who acts with the consent of**
 17 **a parent, guardian, or custodian of, a person who is:**
 18 (1) less than fourteen (14) years of age; or
 19 (2) so mentally disabled or deficient that the person cannot
 20 consent to removal.

21 (b) As used in this section, "deceit" means concealment or
 22 distortion of the truth for the purpose of misleading a person.

23 (c) A person who knowingly or intentionally, by means of deceit:
 24 (1) removes a person who is less than fourteen (14) years of
 25 age from one (1) place to another; or
 26 (2) removes from one (1) place to another a person who is so
 27 mentally disabled or deficient that the person cannot consent
 28 to removal:
 29 (A) by transporting, carrying, or accompanying the
 30 removed person; or
 31 (B) with the intent to confine the removed person without
 32 the consent of a parent, guardian, or custodian of the
 33 removed person;
 34 commits removal by deceit, a Class C felony.

35 (d) An offense described in subsection (c) is a Class B felony if
 36 the offense:
 37 (1) is committed while armed with a deadly weapon;
 38 (2) results in serious bodily injury to a person other than the
 39 removing person; or
 40 (3) is committed on an aircraft.

41 (e) It is a defense to a prosecution under this section if the
 42 accused person reasonably believed the removal of the victim was

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in the best interest of the victim.

SECTION 3. IC 35-43-5-1, AS AMENDED BY P.L.181-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Claim statement" means an insurance policy, a document, or a statement made in support of or in opposition to a claim for payment or other benefit under an insurance policy, or other evidence of expense, injury, or loss. The term includes statements made orally, in writing, or electronically, including the following:

- (1) An account.
- (2) A bill for services.
- (3) A bill of lading.
- (4) A claim.
- (5) A diagnosis.
- (6) An estimate of property damages.
- (7) A hospital record.
- (8) An invoice.
- (9) A notice.
- (10) A proof of loss.
- (11) A receipt for payment.
- (12) A physician's records.
- (13) A prescription.
- (14) A statement.
- (15) A test result.
- (16) X-rays.

(c) "Coin machine" means a coin box, vending machine, or other mechanical or electronic device or receptacle designed:

- (1) to receive a coin, bill, or token made for that purpose; and
- (2) in return for the insertion or deposit of a coin, bill, or token automatically:
 - (A) to offer, provide, or assist in providing; or
 - (B) to permit the acquisition of;
 - some property.

(d) "Credit card" means an instrument or device (whether known as a credit card or charge plate, or by any other name) issued by an issuer for use by or on behalf of the credit card holder in obtaining property.

(e) "Credit card holder" means the person to whom or for whose benefit the credit card is issued by an issuer.

(f) "Customer" means a person who receives or has contracted for a utility service.

(g) "Drug or alcohol screening test" means a test that:

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1 (1) is used to determine the presence or use of alcohol, a
2 controlled substance, or a drug in a person's bodily substance; and

3 (2) is administered in the course of monitoring a person who is:

4 (A) incarcerated in a prison or jail;

5 (B) placed in a community corrections program;

6 (C) on probation or parole;

7 (D) participating in a court ordered alcohol or drug treatment
8 program; or

9 (E) on court ordered pretrial release.

10 (h) "Entrusted" means held in a fiduciary capacity or placed in
11 charge of a person engaged in the business of transporting, storing,
12 lending on, or otherwise holding property of others.

13 (i) "Identifying information" means information that identifies ~~an~~
14 ~~individual, a person, including an individual's:~~ **a person's:**

15 (1) name, address, date of birth, place of employment, employer
16 identification number, mother's maiden name, Social Security
17 number, or any identification number issued by a governmental
18 entity;

19 (2) unique biometric data, including ~~the~~ **an** individual's
20 fingerprint, voice print, or retina or iris image;

21 (3) unique electronic identification number, address, or routing
22 code;

23 (4) telecommunication identifying information; or

24 (5) telecommunication access device, including a card, a plate, a
25 code, a telephone number, an account number, a personal
26 identification number, an electronic serial number, a mobile
27 identification number, or another telecommunications service or
28 device or means of account access that may be used to:

29 (A) obtain money, goods, services, or any other thing of value;
30 or

31 (B) initiate a transfer of funds.

32 (j) "Insurance policy" includes the following:

33 (1) An insurance policy.

34 (2) A contract with a health maintenance organization (as defined
35 in IC 27-13-1-19) or a limited service health maintenance
36 organization (as defined in IC 27-13-1-27).

37 (3) A written agreement entered into under IC 27-1-25.

38 (k) "Insurer" has the meaning set forth in IC 27-1-2-3(x). The term
39 also includes the following:

40 (1) A reinsurer.

41 (2) A purported insurer or reinsurer.

42 (3) A broker.

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- 1 (4) An agent of an insurer, a reinsurer, a purported insurer or
 2 reinsurer, or a broker.
- 3 (5) A health maintenance organization.
- 4 (6) A limited service health maintenance organization.
- 5 (l) "Manufacturer" means a person who manufactures a recording.
 6 The term does not include a person who manufactures a medium upon
 7 which sounds or visual images can be recorded or stored.
- 8 (m) "Make" means to draw, prepare, complete, counterfeit, copy or
 9 otherwise reproduce, or alter any written instrument in whole or in part.
- 10 (n) "Metering device" means a mechanism or system used by a
 11 utility to measure or record the quantity of services received by a
 12 customer.
- 13 (o) "Public relief or assistance" means any payment made, service
 14 rendered, hospitalization provided, or other benefit extended to a
 15 person by a governmental entity from public funds and includes
 16 township assistance, food stamps, direct relief, unemployment
 17 compensation, and any other form of support or aid.
- 18 (p) "Recording" means a tangible medium upon which sounds or
 19 visual images are recorded or stored. The term includes the following:
 20 (1) An original:
 21 (A) phonograph record;
 22 (B) compact disc;
 23 (C) wire;
 24 (D) tape;
 25 (E) audio cassette;
 26 (F) video cassette; or
 27 (G) film.
- 28 (2) Any other medium on which sounds or visual images are or
 29 can be recorded or otherwise stored.
- 30 (3) A copy or reproduction of an item in subdivision (1) or (2)
 31 that duplicates an original recording in whole or in part.
- 32 (q) "Slug" means an article or object that is capable of being
 33 deposited in a coin machine as an improper substitute for a genuine
 34 coin, bill, or token.
- 35 (r) "Utility" means a person who owns or operates, for public use,
 36 any plant, equipment, property, franchise, or license for the production,
 37 storage, transmission, sale, or delivery of electricity, water, steam,
 38 telecommunications, information, or gas.
- 39 (s) "Written instrument" means a paper, a document, or other
 40 instrument containing written matter and includes money, coins,
 41 tokens, stamps, seals, credit cards, badges, trademarks, medals, retail
 42 sales receipts, labels or markings (including a universal product code

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1 (UPC) or another product identification code), or other objects or
2 symbols of value, right, privilege, or identification.

3 SECTION 4. [EFFECTIVE JULY 1, 2009] **IC 35-42-3-3 and**
4 **IC 35-43-5-1, both as amended by this act, and IC 35-42-3-3.5, as**
5 **added by this act, apply only to crimes committed after June 30,**
6 **2009.**

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