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# SENATE BILL No. 564

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 12-18-8-6; IC 31-14-14-5; IC 31-17-2-8.3; IC 35-40; IC 35-41-1-6.5; IC 35-50.

**Synopsis:** Domestic violence. Provides that a county domestic violence fatality review team shall review cases in which a person who committed suicide was a victim of an act of domestic violence. Permits a court to require a noncustodial parent who has been convicted of certain crimes of domestic violence to require the parent to attend a batterer's intervention program certified by the Indiana coalition against domestic violence as a condition of receiving unsupervised visitation time. Adds additional crimes to the definition of a "crime involving domestic or family violence", and makes a person convicted of a Class D felony that is a crime involving domestic or family violence ineligible for alternative misdemeanor sentencing. Requires that a batterer's intervention program to which a court may order a person to attend must be certified by the Indiana coalition against domestic violence.

**Effective:** July 1, 2011.

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### Becker, Zakas, Broden

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January 20, 2011, read first time and referred to Committee on Judiciary.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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**SENATE BILL No. 564**



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 12-18-8-6 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) A county may  
 3 establish a county domestic violence fatality review team for the  
 4 purpose of reviewing a death resulting from **or in connection with**  
 5 domestic violence. The team shall review only those deaths in which:  
 6 (1) the person who commits the act of domestic violence resulting  
 7 in death:  
 8 (1) (A) is charged with a criminal offense that results in final  
 9 judgment; or  
 10 (2) (B) is deceased; **or**  
 11 (2) **the manner of death is suicide, and the deceased individual**  
 12 **was a victim of an act of domestic violence.**  
 13 (b) The legislative body (as defined in IC 36-1-2-9) of a county must  
 14 determine by majority vote if the county will establish a local domestic  
 15 violence fatality review team.  
 16 (c) If a county elects not to establish a county domestic violence  
 17 fatality review team, the county may join with one (1) or more other



1 counties that have not established a county domestic violence fatality  
2 review team and form a regional domestic violence fatality review  
3 team.

4 (d) To establish a regional domestic violence fatality review team  
5 as described in subsection (c), the legislative body of each county  
6 comprising the region must cast a majority of votes in favor of  
7 establishing a regional domestic violence fatality review team.

8 SECTION 2. IC 31-14-14-5, AS AMENDED BY P.L.68-2005,  
9 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2011]: Sec. 5. (a) This section applies if a court finds that a  
11 noncustodial parent has been convicted of a crime involving domestic  
12 or family violence that was witnessed or heard by the noncustodial  
13 parent's child.

14 (b) There is created a rebuttable presumption that the court shall  
15 order that the noncustodial parent's parenting time with the child must  
16 be supervised:

17 (1) for at least one (1) year and not more than two (2) years  
18 immediately following the crime involving domestic or family  
19 violence; or

20 (2) until the child becomes emancipated;  
21 whichever occurs first.

22 (c) **As a condition of granting the noncustodial parent**  
23 **unsupervised parenting time, the court may require the**  
24 **noncustodial parent to complete a batterer's intervention program**  
25 **certified by the Indiana coalition against domestic violence.**

26 SECTION 3. IC 31-17-2-8.3, AS AMENDED BY P.L.68-2005,  
27 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
28 JULY 1, 2011]: Sec. 8.3. (a) This section applies if a court finds that a  
29 noncustodial parent has been convicted of a crime involving domestic  
30 or family violence that was witnessed or heard by the noncustodial  
31 parent's child.

32 (b) There is created a rebuttable presumption that the court shall  
33 order that the noncustodial parent's parenting time with the child must  
34 be supervised:

35 (1) for at least one (1) year and not more than two (2) years  
36 immediately following the crime involving domestic or family  
37 violence; or

38 (2) until the child becomes emancipated;  
39 whichever occurs first.

40 (c) **As a condition of granting the noncustodial parent**  
41 **unsupervised parenting time, the court may require the**  
42 **noncustodial parent to complete a batterer's intervention program**

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**certified by the Indiana coalition against domestic violence.**

SECTION 4. IC 35-40-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. Upon request of a victim, the office of the prosecuting attorney having jurisdiction or a law enforcement agency having custody of a person accused of a crime against the victim shall notify the victim of the scheduling of a bond hearing, the escape or death of a person accused of committing a crime against the victim, release of a person convicted of a crime against the victim to a work release program, or any other type of postarrest release of a person convicted of a crime **or charged with a crime** against the victim.

SECTION 5. IC 35-40-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) A victim shall provide to and maintain with the agency that is responsible for providing notice to the victim a request for notice on a form that is provided by that agency. The form must include a telephone number, **electronic mail address**, and **mailing** address for the victim. If the victim fails to keep the victim's telephone number and address current, the agency may withdraw the victim's request for notice.

(b) A victim may restore a request for notice of subsequent proceedings by filing, on a request form provided by an agency, the victim's current telephone number **electronic mail address**, and **mailing** address.

SECTION 6. IC 35-40-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) This section applies if the victim is an entity other than an individual.

(b) A request for notice under IC 35-40-10 must identify the name, **electronic mail address**, and ~~the~~ mailing address of the person who is to receive notices and consultations on behalf of the entity.

SECTION 7. IC 35-41-1-6.5, AS AMENDED BY P.L.111-2009, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6.5. "Crime involving domestic or family violence" means a crime that occurs when a family or household member commits, attempts to commit, or conspires to commit any of the following against another family or household member:

- (1) A homicide offense under IC 35-42-1.
- (2) A battery offense under IC 35-42-2.
- (3) Kidnapping or confinement under IC 35-42-3.
- (4) Human and sexual trafficking crimes under IC 35-42-3.5.
- (5) A sex offense under IC 35-42-4.
- (6) Robbery under IC 35-42-5.
- (7) Arson or mischief under IC 35-43-1.

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- 1 (8) Burglary or trespass under IC 35-43-2.
- 2 (9) Disorderly conduct under IC 35-45-1.
- 3 (10) Intimidation or harassment under IC 35-45-2.
- 4 (11) Voyeurism under IC 35-45-4.
- 5 (12) Stalking under IC 35-45-10.
- 6 (13) An offense against family under IC 35-46-1-2 through
- 7 IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.
- 8 (14) A crime involving animal cruelty and a family or household
- 9 member under IC 35-46-3-12(b)(2) or IC 35-46-3-12.5.
- 10 **(15) Strangulation under IC 35-42-2-9.**
- 11 **(16) Pointing a firearm under IC 35-47-4-3.**
- 12 **(17) Residential entry under IC 35-43-2-1.5.**
- 13 **(18) Criminal recklessness under IC 35-42-2.**
- 14 **(19) Interference with the reporting of a crime under**
- 15 **IC 35-45-2-5.**
- 16 **(20) A crime of domestic violence under IC 35-41-1-6.3.**

17 SECTION 8. IC 35-50-2-7, AS AMENDED BY P.L.71-2005,  
 18 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2011]: Sec. 7. (a) A person who commits a Class D felony  
 20 shall be imprisoned for a fixed term of between six (6) months and  
 21 three (3) years, with the advisory sentence being one and one-half (1  
 22 1/2) years. In addition, the person may be fined not more than ten  
 23 thousand dollars (\$10,000).

24 (b) Notwithstanding subsection (a), if a person has committed a  
 25 Class D felony, the court may enter judgment of conviction of a Class  
 26 A misdemeanor and sentence accordingly. However, the court shall  
 27 enter a judgment of conviction of a Class D felony if:

- 28 (1) the court finds that:
  - 29 (A) the person has committed a prior, unrelated felony for
  - 30 which judgment was entered as a conviction of a Class A
  - 31 misdemeanor; and
  - 32 (B) the prior felony was committed less than three (3) years
  - 33 before the second felony was committed;
- 34 (2) the offense is ~~domestic battery~~ as a Class D felony ~~under~~
- 35 ~~IC 35-42-2-1.3~~; **that is a crime involving domestic or family**
- 36 **violence under IC 35-41-1-6.5**; or
- 37 (3) the offense is possession of child pornography
- 38 (IC 35-42-4-4(c)).

39 The court shall enter in the record, in detail, the reason for its action  
 40 whenever it exercises the power to enter judgment of conviction of a  
 41 Class A misdemeanor granted in this subsection.

42 SECTION 9. IC 35-50-9-1, AS ADDED BY P.L.94-2010,

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1 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2011]: Sec. 1. (a) At the time of sentencing for a person  
3 convicted of domestic battery under IC 35-42-2-1.3 or a crime that  
4 involved domestic abuse, neglect, or violence, the court may require  
5 the person to complete a batterer's intervention program approved by  
6 the court.

7 (b) The person convicted of domestic battery or another crime  
8 described in subsection (a) shall pay all expenses of the batterer's  
9 intervention program.

10 (c) The batterer's intervention program must be ~~a certified an~~  
11 intervention program **certified by the Indiana coalition against**  
12 **domestic violence.**

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