



March 22, 2013

ENGROSSED
SENATE BILL No. 361

DIGEST OF SB 361 (Updated March 20, 2013 3:41 pm - DI 69)

Citations Affected: IC 35-31.5; IC 35-45.

Synopsis: Intimidation. Provides that for the crime of intimidation, "communicates" includes posting a message electronically, including on a social networking web site. Provides that it is a Class D felony if the person to whom the threat is communicated is: (1) an employee of a hospital, school, church, or religious organization; or (2) is a person that owns a building or structure that is open to the public or is an employee of the person. Specifies that communicating a threat with the intent to interfere with the occupancy of certain buildings may constitute intimidation.

Effective: July 1, 2013.

Crider, Arnold J, Randolph

(HOUSE SPONSORS — PRICE, MAHAN)

January 8, 2013, read first time and referred to Committee on Corrections & Criminal Law.
February 7, 2013, amended, reported favorably — Do Pass.
February 11, 2013, read second time, amended, ordered engrossed.
February 12, 2013, engrossed. Read third time, passed. Yeas 48, nays 1.

HOUSE ACTION

February 26, 2013, read first time and referred to Committee on Courts and Criminal Code.
March 21, 2013, amended, reported — Do Pass.

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March 22, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 361

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 35-31.5-2-47.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2013]: **Sec. 47.5. "Communicates", for**
4 **purposes of IC 35-45-2-1, has the meaning set forth in**
5 **IC 35-45-2-1(c).**

6 SECTION 2. IC 35-31.5-2-330, AS ADDED BY P.L.114-2012,
7 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2013]: Sec. 330. "Threat", for purposes of IC 35-45-2-1, has
9 the meaning set forth in ~~IC 35-45-2-1(c).~~ **IC 35-45-2-1(d).**

10 SECTION 3. IC 35-45-2-1, AS AMENDED BY P.L.3-2006,
11 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2013]: Sec. 1. (a) A person who communicates a threat to
13 another person, with the intent:

- 14 (1) that the other person engage in conduct against the other
15 person's will;
16 (2) that the other person be placed in fear of retaliation for a prior
17 lawful act; or

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- 1 (3) of:
 2 (A) causing:
 3 ~~(A) (i)~~ a dwelling, a building, or ~~another~~ **other** structure; or
 4 ~~(B) (ii)~~ a vehicle;
 5 to be evacuated; **or**
 6 **(B) interfering with the occupancy of:**
 7 **(i) a dwelling, building, or other structure; or**
 8 **(ii) a vehicle;**
 9 commits intimidation, a Class A misdemeanor.
 10 (b) However, the offense is a:
 11 (1) Class D felony if:
 12 (A) the threat is to commit a forcible felony;
 13 (B) the person to whom the threat is communicated:
 14 (i) is a law enforcement officer;
 15 (ii) is a judge or bailiff of any court;
 16 (iii) is a witness (or the spouse or child of a witness) in any
 17 pending criminal proceeding against the person making the
 18 threat;
 19 (iv) is an employee of a **school or** school corporation;
 20 (v) is a community policing volunteer;
 21 (vi) is an employee of a court;
 22 (vii) is an employee of a probation department; ~~or~~
 23 (viii) is an employee of a community corrections program;
 24 **(ix) is an employee of a hospital, church, or religious**
 25 **organization; or**
 26 **(x) is a person that owns a building or structure that is**
 27 **open to the public or is an employee of the person;**
 28 **and, except as provided in item (iii), the threat is**
 29 **communicated to the person because of the occupation,**
 30 **profession, employment status, or ownership status of the**
 31 **person as described in items (i) through (x) or based on an**
 32 **act taken by the person within the scope of the occupation,**
 33 **profession, employment status, or ownership status of the**
 34 **person;**
 35 (C) the person has a prior unrelated conviction for an offense
 36 under this section concerning the same victim; or
 37 (D) the threat is communicated using property, including
 38 electronic equipment or systems, of a school corporation or
 39 other governmental entity; and
 40 (2) Class C felony if, while committing it, the person draws or
 41 uses a deadly weapon.
 42 (c) **"Communicates" includes posting a message electronically,**



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1 including on a social networking web site (as defined in
2 IC 35-42-4-12(d)).
3 (e) (d) "Threat" means an expression, by words or action, of an
4 intention to:
5 (1) unlawfully injure the person threatened or another person, or
6 damage property;
7 (2) unlawfully subject a person to physical confinement or
8 restraint;
9 (3) commit a crime;
10 (4) unlawfully withhold official action, or cause such withholding;
11 (5) unlawfully withhold testimony or information with respect to
12 another person's legal claim or defense, except for a reasonable
13 claim for witness fees or expenses;
14 (6) expose the person threatened to hatred, contempt, disgrace, or
15 ridicule;
16 (7) falsely harm the credit or business reputation of the person
17 threatened; or
18 (8) cause the evacuation of a dwelling, a building, another
19 structure, or a vehicle.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 361, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 1 through 5, begin a new line double block indented and insert:

"(3) of:

(A) causing:

~~(A)~~ (i) a dwelling, a building, or another structure; or

~~(B)~~ (ii) a vehicle;

to be evacuated; or

(B) inhibiting occupancy of:

(i) a dwelling, building, or other structure; or

(ii) a vehicle;

commits intimidation, a Class A misdemeanor."

Page 2, line 9, after "person" insert "**or persons**".

Page 2, line 21, after "is" insert "**an employee, representative, student, patient, or invitee of**".

Page 2, line 30, after "message" insert "**electronically, including**".

Page 2, line 31, delete "with the intent" and insert ".".

Page 2, delete line 32.

and when so amended that said bill do pass.

(Reference is to SB 361 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 9, Nays 0.

 SENATE MOTION

Madam President: I move that Senate Bill 361 be amended to read as follows:

Page 2, line 1, beginning with "(3)" begin a new line block indented.

Page 2, line 3, after "dwelling," strike "a".

Page 2, line 3, strike "another" and insert "**other**".

Page 2, line 13, delete "or persons" and insert "**(or persons)**".

Page 2, line 25, delete "or".

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Page 2, line 28, delete "." and insert "; or
**(x) is an employee or invitee of a person that owns,
occupies, or has a contractual interest in a building or
structure that is open to the public;**".

(Reference is to SB 361 as printed February 8, 2013.)

CRIDER

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 361, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 6, delete "inhibiting" and insert "**interfering with the**".

Page 2, line 13, delete "(or persons)".

Page 2, line 20, after "a" insert "**school or**".

Page 2, line 25, delete ", representative, student, patient, or".

Page 2, line 26, delete "invitee".

Page 2, line 26, delete "school,".

Page 2, line 28, delete "an employee or invitee of".

Page 2, line 28, delete ",,".

Page 2, line 29, delete "occupies, or has a contractual interest in".

Page 2, line 30, delete ";" and insert "**or is an employee of the person;**".

Page 2, between lines 30 and 31, begin a new line double block indented and insert:

"and, except as provided in item (iii), the threat is communicated to the person because of the occupation, profession, employment status, or ownership status of the person as described in items (i) through (x) or based on an act taken by the person within the scope of the occupation, profession, employment status, or ownership status of the person;".

and when so amended that said bill do pass.

(Reference is to SB 361 as reprinted February 12, 2013.)

MCMILLIN, Chair

Committee Vote: yeas 9, nays 0.

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