

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1021

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 35-31.5-2-115.5, AS ADDED BY P.L.238-2015, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 115.5. (a) "Emergency medical services provider", **for purposes of IC 35-42-2-1**, has the meaning set forth in IC 16-41-10-1. **This term includes a staff member in the emergency department of a hospital.**

(b) "Emergency medical services provider", **for purposes of IC 35-44.1-3-1 and IC 35-46-1-4, has the meaning set forth in IC 16-41-10-1.**

SECTION 2. IC 35-42-2-1, AS AMENDED BY P.L.142-2020, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) As used in this section, "public safety official" means:

- (1) a law enforcement officer, including an alcoholic beverage enforcement officer;
- (2) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71);
- (3) an employee of the department of correction;
- (4) a probation officer;
- (5) a parole officer;
- (6) a community corrections worker;

HEA 1021 — CC 1



- (7) a home detention officer;
- (8) a department of child services employee;
- (9) a firefighter;
- (10) an emergency medical services provider;
- (11) a judicial officer;
- (12) a bailiff of any court; or
- (13) a special deputy (as described in IC 36-8-10-10.6).

(b) As used in this section, "relative" means an individual related by blood, half-blood, adoption, marriage, or remarriage, including:

- (1) a spouse;
- (2) a parent or stepparent;
- (3) a child or stepchild;
- (4) a grandchild or stepgrandchild;
- (5) a grandparent or stepgrandparent;
- (6) a brother, sister, stepbrother, or stepsister;
- (7) a niece or nephew;
- (8) an aunt or uncle;
- (9) a daughter-in-law or son-in-law;
- (10) a mother-in-law or father-in-law; or
- (11) a first cousin.

(c) Except as provided in subsections (d) through (k), a person who knowingly or intentionally:

- (1) touches another person in a rude, insolent, or angry manner;
- or
- (2) in a rude, insolent, or angry manner places any bodily fluid or waste on another person;

commits battery, a Class B misdemeanor.

(d) The offense described in subsection (c)(1) or (c)(2) is a Class A misdemeanor if it:

- (1) results in bodily injury to any other person; or
- (2) is committed against a member of a foster family home (as defined in IC 35-31.5-2-139.3) by a person who is not a resident of the foster family home if the person who committed the offense is a relative of a person who lived in the foster family home at the time of the offense.

(e) The offense described in subsection (c)(1) or (c)(2) is a Level 6 felony if one (1) or more of the following apply:

- (1) The offense results in moderate bodily injury to any other person.
- (2) The offense is committed against a public safety official while the official is engaged in the official's official duty, **unless the offense is committed by a person detained or committed**



under IC 12-26.

(3) The offense is committed against a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age.

(4) The offense is committed against a person of any age who has a mental or physical disability and is committed by a person having the care of the person with the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation.

(5) The offense is committed against an endangered adult (as defined in IC 12-10-3-2).

(6) The offense:

(A) is committed against a member of a foster family home (as defined in IC 35-31.5-2-139.3) by a person who is not a resident of the foster family home if the person who committed the offense is a relative of a person who lived in the foster family home at the time of the offense; and

(B) results in bodily injury to the member of the foster family.

(f) The offense described in subsection (c)(2) is a Level 6 felony if the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or human immunodeficiency virus.

(g) The offense described in subsection (c)(1) or (c)(2) is a Level 5 felony if one (1) or more of the following apply:

(1) The offense results in serious bodily injury to another person.

(2) The offense is committed with a deadly weapon.

(3) The offense results in bodily injury to a pregnant woman if the person knew of the pregnancy.

(4) The person has a previous conviction for a battery offense included in this chapter against the same victim.

(5) The offense results in bodily injury to one (1) or more of the following:

(A) A public safety official while the official is engaged in the official's official duties, **unless the offense is committed by a person detained or committed under IC 12-26.**

(B) A person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(C) A person who has a mental or physical disability if the offense is committed by an individual having care of the person with the disability, regardless of whether the care is assumed voluntarily or because of a legal obligation.

(D) An endangered adult (as defined in IC 12-10-3-2).



(h) The offense described in subsection (c)(2) is a Level 5 felony if:
 (1) the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or human immunodeficiency virus; and
 (2) the person placed the bodily fluid or waste on a public safety official, **unless the offense is committed by a person detained or committed under IC 12-26.**

(i) The offense described in subsection (c)(1) or (c)(2) is a Level 4 felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2).

(j) The offense described in subsection (c)(1) or (c)(2) is a Level 3 felony if it results in serious bodily injury to a person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(k) The offense described in subsection (c)(1) or (c)(2) is a Level 2 felony if it results in the death of one (1) or more of the following:

- (1) A person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.
- (2) An endangered adult (as defined in IC 12-10-3-2).

SECTION 3. IC 35-44.1-2-2, AS AMENDED BY P.L.5-2022, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) A person who:

(1) knowingly or intentionally induces, by threat, coercion, false statement, or offer of goods, services, or anything of value, a witness or informant in a legal proceeding or an administrative or criminal investigation to:

- (A) withhold or unreasonably delay in producing any testimony, information, document, or thing that the witness or informant is legally required to produce;
- (B) avoid legal process summoning the person to testify or supply evidence;
- (C) absent the person from a proceeding or investigation to which the person has been legally summoned; or
- (D) give a false or materially misleading statement;

(2) knowingly or intentionally in a legal proceeding or an administrative or criminal investigation:

- (A) withholds or unreasonably delays in producing any testimony, information, document, or thing after a court orders the person to produce the testimony, information, document, or thing;
- (B) avoids legal process summoning the person to testify or supply evidence; or



(C) absents the person from a proceeding or investigation to which the person has been legally summoned;

(3) alters, damages, or removes any record, document, or thing, with intent to prevent it from being produced or used as evidence in any legal proceeding or administrative or criminal investigation;

(4) makes, presents, or uses a false record, document, or thing with intent that the record, document, or thing, material to the point in question, appear in evidence in a legal proceeding or an administrative or criminal investigation to mislead a public servant; ~~or~~

(5) communicates with a juror otherwise than as authorized by law, with intent to influence the juror regarding any matter that is or may be brought before the juror; **or**

(6) being employed by a court or law enforcement agency, notifies the subject of a warrant of the warrant, with the intent to interfere with the execution of the warrant;

commits obstruction of justice, a Level 6 felony, except as provided in subsection (b).

(b) Except as provided in subsection (e), the offense is a Level 5 felony if, during the investigation or pendency of a domestic violence or child abuse case under subsection (c), a person knowingly or intentionally:

(1) offers, gives, or promises any benefit to;

(2) communicates a threat as defined by IC 35-45-2-1(c) to; or

(3) intimidates, unlawfully influences, or unlawfully persuades; any witness to abstain from attending or giving testimony, or to give a false or materially misleading statement, at any hearing, trial, deposition, probation, or other criminal proceeding or from giving testimony or other statements, including giving a false or materially misleading statement, to a court or law enforcement officer under IC 35-31.5-2-185.

(c) As used in this section, "domestic violence or child abuse case" means any case involving an allegation of:

(1) the commission of a crime involving domestic or family violence under IC 35-31.5-2-76 involving a family or household member under IC 35-31.5-2-128;

(2) the commission of a crime of domestic violence under IC 35-31.5-2-78 involving a family or household member under IC 35-31.5-2-128; or

(3) physical abuse, sexual abuse, or child neglect, including crimes listed under IC 35-31.5-2-76 involving a victim who was



less than eighteen (18) years of age at the time of the offense, whether or not the person is a family or household member under IC 35-31.5-2-128.

(d) Subsection (a)(2)(A) does not apply to:

(1) a person who qualifies for a special privilege under IC 34-46-4 with respect to the testimony, information, document, or thing; or

(2) a person who, as:

(A) an attorney;

(B) a physician;

(C) a member of the clergy; or

(D) a husband or wife;

is not required to testify under IC 34-46-3-1.

(e) Subsections (a) and (b) do not apply to:

(1) an attorney;

(2) an investigator;

(3) a law enforcement officer; or

(4) a judge;

engaged in that person's professional or official duties.

SECTION 4. IC 35-44.1-3-10, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2023 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 10. (a) The following definitions apply throughout this section:

(1) "Lawful supervision" means supervision by:

(A) the department of correction;

(B) a court;

(C) a probation department;

(D) a community corrections program, a community transition program, or another similar program; or

(E) parole.

(2) "Service provider" means:

(A) with respect to a person subject to lawful detention:

(i) a public servant;

(ii) a person employed by a governmental entity; or

(iii) a person who provides goods or services to a person who is subject to lawful detention; and

(B) with respect to a person subject to lawful supervision:

(i) a public servant whose official duties include the supervision of the person subject to lawful supervision;

(ii) a person employed by a governmental entity to provide supervision for the person subject to lawful supervision; or

(iii) a person who is employed by or contracts with a



governmental entity to provide treatment or other services to the person subject to lawful supervision as a condition of the person's lawful supervision.

(b) A service provider who knowingly or intentionally engages in **any fondling or touching with a person who is subject to lawful detention or lawful supervision with the intent to arouse or satisfy the sexual desires of the service provider or the person commits sexual misconduct, a Level 6 felony. However, the offense is a Level 5 felony if the service provider engages in** sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with ~~a~~ **the** person who is subject to lawful detention or lawful supervision. ~~commits sexual misconduct, a Level 5 felony.~~

(c) A service provider at least eighteen (18) years of age who knowingly or intentionally engages in ~~sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5)~~ **any fondling or touching with the intent to arouse or satisfy the sexual desires of the service provider or the other person,** with a person who is:

- (1) less than eighteen (18) years of age; and
- (2) subject to lawful detention or lawful supervision;

~~commits sexual misconduct, a Level 4 felony. Level 5 felony.~~ **However, the offense is a Level 4 felony if the service provider engages in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with the person.**

(d) In addition to any other penalty imposed for a violation of this section, the court shall order the person to pay restitution under IC 35-50-5-3 for expenses related to pregnancy and childbirth if the pregnancy is a result of the offense.

(e) It is not a defense that an act described in subsection (b) or (c) was consensual.

(f) This section does not apply to **fondling, touching,** sexual intercourse, or other sexual conduct (as defined in IC 35-31.5-2-221.5) between spouses.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1021 — CC 1

