



PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 197 be amended to read as follows:

- 1       Page 36, between lines 11 and 12, begin a new paragraph and insert:  
2       "SECTION 33. IC 35-31.5-2-149.6 IS ADDED TO THE INDIANA  
3       CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
4       [EFFECTIVE JULY 1, 2021]: **Sec. 149.6. "Harms a fetus", for**  
5       **purposes of IC 35-42-2-10, has the meaning set forth in**  
6       **IC 35-42-2-9.5(b)."**  
7       Page 47, between lines 30 and 31, begin a new paragraph and insert:  
8       "SECTION 51. IC 35-42-2-9.5 IS ADDED TO THE INDIANA  
9       CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
10      [EFFECTIVE JULY 1, 2021]: **Sec. 9.5. (a) This section does not**  
11      **apply to a person that is attempting to save or protect a fetus from**  
12      **harm.**  
13      **(b) As used in this section, "harms a fetus" means:**  
14      **(1) poisoning;**  
15      **(2) starving;**  
16      **(3) burning;**  
17      **(4) dismembering; or**  
18      **(5) causing the demise of;**  
19      **a fetus at any stage of development.**  
20      **(c) A person who knowingly or intentionally harms a fetus at**  
21      **any stage of development commits fetal harm, a Level 3 felony.**  
22      **However the offense is a Level 1 felony if it results in death or**

1 **catastrophic injury of a fetus.**

2 **(d) It is not a defense under subsection (c) that the accused**  
 3 **person performed an abortion in compliance with IC 16-34."**

4 Page 86, line 26, strike "or".

5 Page 86, line 28, delete "(IC 35-42-1-1.5)." and insert "(IC  
 6 35-42-1-1.5); or".

7 Page 86, between lines 28 and 29, begin a new line block indented  
 8 and insert:

9 **"(31) fetal harm (IC 35-42-2-9.5)."**

10 Page 88, between lines 17 and 18, begin a new paragraph and insert:

11 "SECTION 92. IC 35-50-1-2, AS AMENDED BY P.L.142-2020,  
 12 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2021]: Sec. 2. (a) As used in this section, "crime of violence"  
 14 means the following:

15 (1) Murder (IC 35-42-1-1).

16 (2) Attempted murder (IC 35-41-5-1).

17 (3) Voluntary manslaughter (IC 35-42-1-3).

18 (4) Involuntary manslaughter (IC 35-42-1-4).

19 (5) Reckless homicide (IC 35-42-1-5).

20 (6) Battery (IC 35-42-2-1) as a:

21 (A) Level 2 felony;

22 (B) Level 3 felony;

23 (C) Level 4 felony; or

24 (D) Level 5 felony.

25 (7) Domestic battery (IC 35-42-2-1.3) as a:

26 (A) Level 2 felony;

27 (B) Level 3 felony;

28 (C) Level 4 felony; or

29 (D) Level 5 felony.

30 (8) Aggravated battery (IC 35-42-2-1.5).

31 (9) Kidnapping (IC 35-42-3-2).

32 (10) Rape (IC 35-42-4-1).

33 (11) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

34 (12) Child molesting (IC 35-42-4-3).

35 (13) Sexual misconduct with a minor as a Level 1 felony under  
 36 IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2).

37 (14) Robbery as a Level 2 felony or a Level 3 felony (IC  
 38 35-42-5-1).

39 (15) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony,  
 40 or Level 4 felony (IC 35-43-2-1).

41 (16) Operating a vehicle while intoxicated causing death or  
 42 catastrophic injury (IC 9-30-5-5).

43 (17) Operating a vehicle while intoxicated causing serious bodily  
 44 injury to another person (IC 9-30-5-4).

45 (18) Child exploitation as a Level 5 felony under IC 35-42-4-4(b)  
 46 or a Level 4 felony under IC 35-42-4-4(c).

(19) Resisting law enforcement as a felony (IC 35-44.1-3-1).

(20) Unlawful possession of a firearm by a serious violent felon (IC 35-47-4-5).

(21) Strangulation (IC 35-42-2-9) as a Level 5 felony.

**(22) Fetal harm (IC 35-42-2-9.5).**

(b) As used in this section, "episode of criminal conduct" means offenses or a connected series of offenses that are closely related in time, place, and circumstance.

(c) Except as provided in subsection (e) or (f) the court shall determine whether terms of imprisonment shall be served concurrently or consecutively. The court may consider the:

(1) aggravating circumstances in IC 35-38-1-7.1(a); and

(2) mitigating circumstances in IC 35-38-1-7.1(b);

in making a determination under this subsection. The court may order terms of imprisonment to be served consecutively even if the sentences are not imposed at the same time. However, except for crimes of violence, the total of the consecutive terms of imprisonment, exclusive of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10 (before its repeal) to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct shall not exceed the period described in subsection (d).

(d) Except as provided in subsection (c), the total of the consecutive terms of imprisonment to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct may not exceed the following:

(1) If the most serious crime for which the defendant is sentenced is a Level 6 felony, the total of the consecutive terms of imprisonment may not exceed four (4) years.

(2) If the most serious crime for which the defendant is sentenced is a Level 5 felony, the total of the consecutive terms of imprisonment may not exceed seven (7) years.

(3) If the most serious crime for which the defendant is sentenced is a Level 4 felony, the total of the consecutive terms of imprisonment may not exceed fifteen (15) years.

(4) If the most serious crime for which the defendant is sentenced is a Level 3 felony, the total of the consecutive terms of imprisonment may not exceed twenty (20) years.

(5) If the most serious crime for which the defendant is sentenced is a Level 2 felony, the total of the consecutive terms of imprisonment may not exceed thirty-two (32) years.

(6) If the most serious crime for which the defendant is sentenced is a Level 1 felony, the total of the consecutive terms of imprisonment may not exceed forty-two (42) years.

(e) If, after being arrested for one (1) crime, a person commits another crime:

(1) before the date the person is discharged from probation,

1           parole, or a term of imprisonment imposed for the first crime; or  
2           (2) while the person is released:  
3               (A) upon the person's own recognizance; or  
4               (B) on bond;  
5           the terms of imprisonment for the crimes shall be served consecutively,  
6           regardless of the order in which the crimes are tried and sentences are  
7           imposed.  
8           (f) If the factfinder determines under IC 35-50-2-11 that a person  
9           used a firearm in the commission of the offense for which the person  
10          was convicted, the term of imprisonment for the underlying offense and  
11          the additional term of imprisonment imposed under IC 35-50-2-11  
12          must be served consecutively."  
13          Renumber all SECTIONS consecutively.  
            (Reference is to ESB 197 as printed April 1, 2021.)

---

Representative Nisly