

# HOUSE BILL No. 1090

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-43-1-2.

**Synopsis:** Criminal mischief. Provides that a person who recklessly, knowingly, or intentionally damages or defaces property of another person commits a Level 6 felony if the damage or defacement exposes a person or group of persons to hatred, contempt, disgrace, or ridicule.

**Effective:** July 1, 2017.

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## Washburne

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January 5, 2017, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

# HOUSE BILL No. 1090

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 35-43-1-2, AS AMENDED BY P.L.76-2016,  
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2017]: Sec. 2. (a) A person who recklessly, knowingly, or  
4 intentionally damages or defaces property of another person without  
5 the other person's consent commits criminal mischief, a Class B  
6 misdemeanor. However, the offense is:  
7 (1) a Class A misdemeanor if the pecuniary loss is at least seven  
8 hundred fifty dollars (\$750) but less than fifty thousand dollars  
9 (\$50,000); and  
10 (2) a Level 6 felony if:  
11 (A) the pecuniary loss is at least fifty thousand dollars  
12 (\$50,000);  
13 (B) the damage causes a substantial interruption or impairment  
14 of utility service rendered to the public;  
15 (C) the damage is to a public record; ~~or~~  
16 (D) the damage is to a law enforcement animal (as defined in  
17 IC 35-46-3-4.5); **or**



- 1                   **(E) the defacement or damage exposes a person or group**  
 2                   **of persons to hatred, contempt, disgrace, or ridicule.**  
 3           (b) A person who recklessly, knowingly, or intentionally damages:  
 4           (1) a structure used for religious worship without the consent of  
 5           the owner, possessor, or occupant of the property that is damaged;  
 6           (2) a school or community center without the consent of the  
 7           owner, possessor, or occupant of the property that is damaged;  
 8           (3) the property of an agricultural operation (as defined in  
 9           IC 32-30-6-1) without the consent of the owner, possessor, or  
 10           occupant of the property that is damaged;  
 11           (4) the grounds:  
 12               (A) adjacent to; and  
 13               (B) owned or rented in common with;  
 14           a structure or facility identified in subdivisions (1) through (3)  
 15           without the consent of the owner, possessor, or occupant of the  
 16           property that is damaged;  
 17           (5) personal property contained in a structure or located at a  
 18           facility identified in subdivisions (1) through (3) without the  
 19           consent of the owner, possessor, or occupant of the property that  
 20           is damaged;  
 21           (6) property that is vacant real property (as defined in  
 22           IC 36-7-36-5) or a vacant structure (as defined in IC 36-7-36-6);  
 23           or  
 24           (7) property after the person has been denied entry to the property  
 25           by a court order that was issued:  
 26               (A) to the person; or  
 27               (B) to the general public by conspicuous posting on or around  
 28               the property in areas where a person could observe the order  
 29               when the property has been designated by a municipality or  
 30               county enforcement authority to be a vacant property, an  
 31               abandoned property, or an abandoned structure (as defined in  
 32               IC 36-7-36-1);  
 33           commits institutional criminal mischief, a Class A misdemeanor.  
 34           However, the offense is a Level 6 felony if the pecuniary loss (or  
 35           property damage, in the case of an agricultural operation) is at least  
 36           seven hundred fifty dollars (\$750) but less than fifty thousand dollars  
 37           (\$50,000), and a Level 5 felony if the pecuniary loss (or property  
 38           damage, in the case of an agricultural operation) is at least fifty  
 39           thousand dollars (\$50,000).  
 40           (c) A person who recklessly, knowingly, or intentionally damages  
 41           property:  
 42               (1) during:



1 (A) the dealing or manufacture of or attempted dealing or  
2 manufacture of cocaine or a narcotic drug (IC 35-48-4-1); or  
3 (B) the dealing or manufacture of or attempted dealing or  
4 manufacture of methamphetamine (IC 35-48-4-1.1); and  
5 (2) by means of a fire or an explosion;  
6 commits controlled substances criminal mischief, a Level 6 felony.  
7 However, the offense is a Level 5 felony if the offense results in  
8 moderate bodily injury to any person other than a defendant.  
9 (d) If a person is convicted of an offense under this section that  
10 involves the use of graffiti, the court may, in addition to any other  
11 penalty, order that the person's operator's license be suspended or  
12 invalidated by the bureau of motor vehicles for not more than one (1)  
13 year.  
14 (e) The court may rescind an order for suspension or invalidation  
15 under subsection (d) and allow the person to receive a license or permit  
16 before the period of suspension or invalidation ends if the court  
17 determines that the person has removed or painted over the graffiti or  
18 has made other suitable restitution.  
19 (f) For purposes of this section, "pecuniary loss" includes:  
20 (1) the total costs incurred in inspecting, cleaning, and  
21 decontaminating property contaminated by a pollutant; and  
22 (2) a reasonable estimate of all additional costs not already  
23 incurred under subdivision (1) that are necessary to inspect, clean,  
24 and decontaminate property contaminated by a pollutant, to the  
25 extent that the property has not already been:  
26 (A) cleaned;  
27 (B) decontaminated; or  
28 (C) both cleaned and decontaminated.  
29 The term includes inspection, cleaning, or decontamination conducted  
30 by a person certified under IC 13-14-1-15.

