

# HOUSE BILL No. 1094

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-9-2-42; IC 34-6-2-34.5; IC 35-31.5-2; IC 35-46-3.

**Synopsis:** Animal cruelty. Increases the offense level for certain animal cruelty crimes. Provides that a person who recklessly, knowingly, or intentionally tethers a dog under certain circumstances while the dog is in the person's care, custody, or control commits unlawful tethering of a dog, a Class C misdemeanor. Amends and creates certain definitions for offenses relating to animals. Makes conforming amendments.

**Effective:** July 1, 2018.

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## Hatfield

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January 3, 2018, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

# HOUSE BILL No. 1094

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 31-9-2-42, AS AMENDED BY P.L.171-2007,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2018]: Sec. 42. "Domestic or family violence" means, except  
4 for an act of self defense, the occurrence of one (1) or more of the  
5 following acts committed by a family or household member:  
6 (1) Attempting to cause, threatening to cause, or causing physical  
7 harm to another family or household member without legal  
8 justification.  
9 (2) Placing a family or household member in fear of physical  
10 harm without legal justification.  
11 (3) Causing a family or household member to involuntarily  
12 engage in sexual activity by force, threat of force, or duress.  
13 (4) ~~Beating~~ **Abusing** (as described in IC 35-46-3-0.5(2)),  
14 torturing (as described in ~~IC 35-46-3-0.5(5)~~), **IC 35-46-3-0.5(8)**),  
15 mutilating (as described in ~~IC 35-46-3-0.5(3)~~),  
16 **IC 35-46-3-0.5(6)**), or killing a vertebrate animal without  
17 justification with the intent to threaten, intimidate, coerce, harass,



1 or terrorize a family or household member.

2 For purposes of IC 22-4-15-1 and IC 34-26-5, domestic or family  
3 violence also includes stalking (as defined in IC 35-45-10-1) or a sex  
4 offense under IC 35-42-4, whether or not the stalking or sex offense is  
5 committed by a family or household member.

6 SECTION 2. IC 34-6-2-34.5, AS AMENDED BY P.L.171-2007,  
7 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2018]: Sec. 34.5. "Domestic or family violence" means,  
9 except for an act of self-defense, the occurrence of at least one (1) of  
10 the following acts committed by a family or household member:

11 (1) Attempting to cause, threatening to cause, or causing physical  
12 harm to another family or household member.

13 (2) Placing a family or household member in fear of physical  
14 harm.

15 (3) Causing a family or household member to involuntarily  
16 engage in sexual activity by force, threat of force, or duress.

17 (4) **Beating Abusing** (as described in IC 35-46-3-0.5(2)),  
18 torturing (as described in ~~IC 35-46-3-0.5(5)~~, **IC 35-46-3-0.5(8)**),  
19 mutilating (as described in ~~IC 35-46-3-0.5(3)~~);  
20 **IC 35-46-3-0.5(6)**), or killing a vertebrate animal without  
21 justification with the intent to threaten, intimidate, coerce, harass,  
22 or terrorize a family or household member.

23 For purposes of IC 34-26-5, domestic and family violence also includes  
24 stalking (as defined in IC 35-45-10-1) or a sex offense under  
25 IC 35-42-4, whether or not the stalking or sex offense is committed by  
26 a family or household member.

27 SECTION 3. IC 35-31.5-2-1.5 IS ADDED TO THE INDIANA  
28 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
29 [EFFECTIVE JULY 1, 2018]: **Sec. 1.5. "Abuse", for purposes of**  
30 **IC 35-46-3, has the meaning set forth in IC 35-46-3-0.5(2).**

31 SECTION 4. IC 35-31.5-2-3.5 IS ADDED TO THE INDIANA  
32 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
33 [EFFECTIVE JULY 1, 2018]: **Sec. 3.5. "Adequate shelter", for**  
34 **purposes of IC 35-46-3, has the meaning set forth in**  
35 **IC 35-46-3-0.5(3).**

36 SECTION 5. IC 35-31.5-2-26 IS REPEALED [EFFECTIVE JULY  
37 1, 2018]. **Sec. 26. "Beat", for purposes of IC 35-46-3, has the meaning**  
38 **set forth in IC 35-46-3-0.5(2).**

39 SECTION 6. IC 35-31.5-2-160.4 IS ADDED TO THE INDIANA  
40 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
41 [EFFECTIVE JULY 1, 2018]: **Sec. 160.4. "Humane euthanasia", for**  
42 **purposes of IC 35-46-3, has the meaning set forth in**



1 **IC 35-46-3-0.5(4).**

2 SECTION 7. IC 35-31.5-2-200.5 IS ADDED TO THE INDIANA  
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2018]: **Sec. 200.5. "Minimum care", for**  
5 **purposes of IC 35-46-3, has the meaning set forth in**  
6 **IC 35-46-3-0.5(5).**

7 SECTION 8. IC 35-31.5-2-208, AS ADDED BY P.L.114-2012,  
8 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2018]: Sec. 208. "Mutilate", for purposes of IC 35-46-3, has  
10 the meaning set forth in ~~IC 35-46-3-0.5(3)~~: **IC 35-46-3-0.5(6).**

11 SECTION 9. IC 35-31.5-2-210, AS ADDED BY P.L.114-2012,  
12 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2018]: Sec. 210. "Neglect", for purposes of IC 35-46-3, has  
14 the meaning set forth in ~~IC 35-46-3-0.5(4)~~: **IC 35-46-3-0.5(7).**

15 SECTION 10. IC 35-31.5-2-329.5 IS ADDED TO THE INDIANA  
16 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
17 [EFFECTIVE JULY 1, 2018]: **Sec. 329.5. "Tether", for purposes of**  
18 **IC 35-46-3 has the meaning set forth in IC 35-46-3-7.5(a).**

19 SECTION 11. IC 35-31.5-2-335, AS ADDED BY P.L.114-2012,  
20 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
21 JULY 1, 2018]: Sec. 335. "Torture", for purposes of IC 35-46-3, has the  
22 meaning set forth in ~~IC 35-46-3-0.5(5)~~: **IC 35-46-3-0.5(8).**

23 SECTION 12. IC 35-46-3-0.5, AS AMENDED BY P.L.111-2009,  
24 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
25 JULY 1, 2018]: Sec. 0.5. The following definitions apply throughout  
26 this chapter:

27 (1) "Abandon" means to desert an animal or to leave the animal  
28 **permanently in a place** without making provision for adequate  
29 long term care of the animal. The term does not include leaving  
30 an animal in a place that is temporarily vacated for the protection  
31 of human life during a disaster.

32 (2) "Beat" "Abuse" means to **beat, unnecessarily or cruelly**  
33 **strike, torment, injure, or otherwise mistreat** an animal. ~~or to~~  
34 ~~throw the animal against an object causing the animal to suffer~~  
35 ~~severe pain or injury.~~ The term does not include reasonable  
36 ~~training or disciplinary techniques.~~

37 (3) "Adequate shelter" means, with respect to a shelter for a  
38 **domestic animal, a structure that:**

39 **(A) is strong enough to block the elements of the weather;**

40 **(B) is constructed of materials impervious to moisture;**

41 **(C) includes:**

42 **(i) a resting platform, pad, floor mat, or any similar**



- 1 device;
- 2 (ii) a minimum of four (4) sides;
- 3 (iii) an entry portal; and
- 4 (iv) a waterproof roof appropriate for the local climate;
- 5 for the purpose of allowing the domestic animal to remain
- 6 dry, clean, and properly ventilated;
- 7 (D) is periodically cleaned to minimize health hazards; and
- 8 (E) is not any of the following:
- 9 (i) A car.
- 10 (ii) A refrigerator.
- 11 (iii) A crawl space under a building or part of a building.
- 12 (iv) A vehicle.
- 13 (v) A structure made of cardboard or another material
- 14 easily degraded by the elements.
- 15 (vi) A crate or carrier designed to provide temporary
- 16 housing.
- 17 (vii) A structure with a wire or chain-link floor, unless
- 18 the domestic animal is a bird.
- 19 (viii) A structure surrounded by waste, debris, or other
- 20 impediments that could adversely affect the domestic
- 21 animal's health.
- 22 (4) "Humane euthanasia" means the humane destruction of
- 23 an animal by a method that uses sodium pentobarbital or a
- 24 derivative, and that causes painless loss of consciousness and
- 25 subsequent death. The term does not include the use of
- 26 methods prohibited by IC 35-46-3-15.
- 27 (5) "Minimum care" means care sufficient to preserve the
- 28 health and well-being of an animal, including but not limited
- 29 to the following requirements:
- 30 (A) Access, at least once a day, to food that is:
- 31 (i) uncontaminated, wholesome, and palatable;
- 32 (ii) of sufficient quantity and nutritive value to maintain
- 33 the normal condition and weight of the animal; and
- 34 (iii) appropriate for the animal's age and condition.
- 35 (B) Continuous access to potable water that is not in the
- 36 form of snow or ice.
- 37 (C) Adequate shelter as described in subdivision (3).
- 38 (D) Veterinary care to relieve distress from injury, neglect,
- 39 or disease.
- 40 (E) Continuous access to an area for the health and
- 41 well-being of the animal that is:
- 42 (i) adequate in space to allow the animal freedom of



- 1 movement to prevent debility, stress, or abnormal  
 2 behavior patterns;  
 3 (ii) sufficient in ventilation to minimize odors, drafts, and  
 4 condensation;  
 5 (iii) sufficiently heated and cooled as needed to protect  
 6 the animal from extreme temperature or humidity; and  
 7 (iv) kept reasonably clean and free from excess waste or  
 8 other contaminants that could affect the animal's health.
- 9 (3) (6) "Mutilate" means to wound, injure, maim, or disfigure an  
 10 animal by irreparably damaging the animal's body parts or to  
 11 render any part of the animal's body useless. The term includes,  
 12 but is not limited to, bodily injury involving:  
 13 (A) serious permanent disfigurement;  
 14 (B) serious temporary disfigurement;  
 15 (C) permanent or protracted loss or impairment of the function  
 16 of a bodily part or organ; or  
 17 (D) a fracture.
- 18 (4) (7) "Neglect" means:  
 19 (A) endangering an animal's health by failing to provide or  
 20 arrange to provide the an animal with **minimum care as**  
 21 **described in subdivision (5); or** food or drink; if the animal  
 22 is dependent upon the person for the provision of food or  
 23 drink;  
 24 (B) restraining an animal for more than a brief period in a  
 25 manner that endangers the animal's life or health by the use of  
 26 a rope, chain, or tether that:  
 27 (i) is less than three (3) times the length of the animal;  
 28 (ii) is too heavy to permit the animal to move freely; or  
 29 (iii) causes the animal to choke;  
 30 (C) restraining an animal in a manner that seriously endangers  
 31 the animal's life or health;  
 32 (D) failing to:  
 33 (i) provide reasonable care for; or  
 34 (ii) seek veterinary care for;  
 35 an injury or illness to a dog or cat that seriously endangers the  
 36 life or health of the dog or cat; or  
 37 (E) leaving a dog or cat outside and exposed to:  
 38 (i) excessive heat without providing the animal with a means  
 39 of shade from the heat; or  
 40 (ii) excessive cold if the animal is not provided with straw  
 41 or another means of protection from the cold;  
 42 regardless of whether the animal is restrained or kept in a



1 kennel:

2 **(B) failing to bring a dog into a temperature controlled**  
 3 **area when:**

4 **(i) the temperature is not more than thirty two (32)**  
 5 **degrees Fahrenheit;**

6 **(ii) the temperature is at least eighty-five (85) degrees**  
 7 **Fahrenheit; or**

8 **(iii) a heat advisory, wind chill warning, or tornado**  
 9 **warning has been issued by a local, state, or national**  
 10 **authority. This item does not apply when the animal is**  
 11 **within visual range of a competent adult who is**  
 12 **accompanying the animal.**

13 ~~(5)~~ **(8) "Torture" means:**

14 **(A) to inflict extreme physical pain or injury on an animal;**  
 15 **with the intent of increasing or prolonging the animal's pain;**  
 16 **or**

17 **(B) to administer poison to a domestic animal (as defined in**  
 18 **section 12(d) of this chapter) or expose a domestic animal to**  
 19 **a poisonous substance with the intent that the domestic animal**  
 20 **ingest the substance; and suffer harm, pain, or physical injury;**  
 21 **or**

22 **(C) to electrocute an animal.**

23 SECTION 13. IC 35-46-3-7, AS AMENDED BY P.L.158-2013,  
 24 SECTION 558, IS AMENDED TO READ AS FOLLOWS  
 25 [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) A person who:

- 26 (1) has a vertebrate animal in the person's custody; and  
 27 (2) recklessly, knowingly, or intentionally abandons or neglects  
 28 the animal **by failing to provide the animal with adequate**  
 29 **shelter and minimum care;**

30 commits cruelty to an animal, a Class A misdemeanor. However,  
 31 except for a conviction under section 1 of this chapter, the offense is a  
 32 Level 6 felony if the person has a prior unrelated conviction under this  
 33 chapter.

34 (b) It is a defense to a prosecution for abandoning a vertebrate  
 35 animal under this section that the person who had the animal in the  
 36 person's custody reasonably believed that the vertebrate animal was  
 37 capable of surviving on its own.

38 (c) For purposes of this section, an animal that is feral is not in a  
 39 person's custody.

40 SECTION 14. IC 35-46-3-7.5 IS ADDED TO THE INDIANA  
 41 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 42 [EFFECTIVE JULY 1, 2018]: **Sec. 7.5. (a) As used in this section,**



1 "tether" means to restrain and confine a dog by fastening,  
 2 chaining, or tying the dog to a structure or object by use of a chain,  
 3 rope, trolley, cable, or similar device.

4 (b) Tethering a dog is allowed only:

5 (1) pursuant to the requirements of a camping or recreational  
 6 area;

7 (2) if during the hours of 10:00 p.m. to 6:00 a.m., for a period  
 8 no longer than necessary for a person to complete a task, but  
 9 not to exceed one (1) hour; or

10 (3) during the course of reasonable and legal conduct that is  
 11 directly related to the business of shepherding, herding cattle  
 12 or livestock, or an agricultural operation, if the restraint is  
 13 reasonably necessary for the safety of the dog.

14 (c) A tethered dog must be attached to a harness or non-choke  
 15 collar designed for tethering, and the tether must be free from  
 16 entanglement to allow free movement of the full length of the  
 17 tether.

18 (d) A person who recklessly, knowingly, or intentionally tethers  
 19 a dog:

20 (1) that is not more than six (6) months of age;

21 (2) with a device less than three (3) times the length of the dog  
 22 as measured from the tip of the dog's nose to the base of the  
 23 dog's tail;

24 (3) by using logging chains, tow chains, or other lines or  
 25 devices not intended for the purpose of tethering a dog;

26 (4) using a chain weighing more than one-eighth (1/8) of the  
 27 dog's body weight;

28 (5) outside between the hours of 10:00 p.m. and 6:00 a.m.,  
 29 except as provided under subsection (b)(2); or

30 (6) when:

31 (A) the temperature is not more than thirty-two (32)  
 32 degrees Fahrenheit;

33 (B) the temperature is at least eighty-five (85) degrees  
 34 Fahrenheit; or

35 (C) a heat advisory, wind chill warning, or tornado  
 36 warning has been issued by a local, state, or national  
 37 authority;

38 while the dog is in the person's care, custody, or control commits  
 39 unlawful tethering of a dog, a Class C misdemeanor.

40 SECTION 15. IC 35-46-3-11.3, AS AMENDED BY P.L.158-2013,  
 41 SECTION 564, IS AMENDED TO READ AS FOLLOWS  
 42 [EFFECTIVE JULY 1, 2018]: Sec. 11.3. (a) As used in this section,





1 "search and rescue dog" means a dog that receives special training to  
 2 locate or attempt to locate by air scent or ground or water tracking a  
 3 person who is an offender or is lost, trapped, injured, or incapacitated.

4 (b) A person who knowingly or intentionally:

5 (1) interferes with the actions of a search and rescue dog while the  
 6 dog is performing or is attempting to perform a search and rescue  
 7 task; or

8 (2) strikes, torments, injures, or otherwise mistreats a search and  
 9 rescue dog;

10 commits a ~~Class A misdemeanor~~: **Level 6 felony**.

11 (c) An offense under subsection (b)(2) is a ~~Level 6~~ **Level 5** felony  
 12 if the act results in:

13 (1) serious permanent disfigurement;

14 (2) unconsciousness;

15 (3) permanent or protracted loss or impairment of the function of  
 16 a bodily member or organ; or

17 (4) death;

18 of the search and rescue dog.

19 (d) It is a defense that the accused person:

20 (1) engaged in a reasonable act of training, handling, or  
 21 disciplining the search and rescue dog; or

22 (2) reasonably believed the conduct was necessary to prevent  
 23 injury to the accused person or another person.

24 (e) In addition to any sentence or fine imposed for a conviction of  
 25 an offense under this section, the court may order the person to make  
 26 restitution to the person who owns the search and rescue dog for  
 27 reimbursement of:

28 (1) veterinary bills; and

29 (2) replacement costs of the dog if the dog is disabled or killed.

30 SECTION 16. IC 35-46-3-11.5, AS AMENDED BY P.L.158-2013,  
 31 SECTION 565, IS AMENDED TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 2018]: Sec. 11.5. (a) As used in this section,

33 "service animal" means an animal that a person who is impaired by:

34 (1) blindness or any other visual impairment;

35 (2) deafness or any other aural impairment;

36 (3) a physical disability; or

37 (4) a medical condition;

38 relies on for navigation, assistance in performing daily activities, or  
 39 alert signals regarding the onset of the person's medical condition.

40 (b) A person who knowingly or intentionally:

41 (1) interferes with the actions of a service animal; or

42 (2) strikes, torments, injures, or otherwise mistreats a service



- 1 animal;
- 2 while the service animal is engaged in assisting an impaired person
- 3 described in subsection (a) commits a ~~Class A misdemeanor~~. **Level 6**
- 4 **felony**.
- 5 (c) An offense under subsection (b)(2) is a ~~Level 6~~ **Level 5** felony
- 6 if the act results in the:
- 7 (1) serious permanent disfigurement;
- 8 (2) unconsciousness;
- 9 (3) permanent or protracted loss or impairment of the function of
- 10 a bodily member or organ; or
- 11 (4) death;
- 12 of the service animal.
- 13 (d) It is a defense that the accused person:
- 14 (1) engaged in a reasonable act of training, handling, or
- 15 disciplining the service animal; or
- 16 (2) reasonably believed the conduct was necessary to prevent
- 17 injury to the accused person or another person.
- 18 SECTION 17. IC 35-46-3-12, AS AMENDED BY P.L.158-2013,
- 19 SECTION 566, IS AMENDED TO READ AS FOLLOWS
- 20 [EFFECTIVE JULY 1, 2018]: Sec. 12. (a) This section does not apply
- 21 to a person who euthanizes an injured, a sick, a homeless, or an
- 22 unwanted domestic animal if:
- 23 (1) the person is employed by a humane society, an animal control
- 24 agency, or a governmental entity operating an animal shelter or
- 25 other animal impounding facility; and
- 26 (2) the person euthanizes the domestic animal **using humane**
- 27 **euthanasia** in accordance with guidelines adopted by the humane
- 28 society, animal control agency, or governmental entity operating
- 29 the animal shelter or other animal impounding facility.
- 30 (b) A person who knowingly or intentionally ~~beats~~ **abuses** a
- 31 vertebrate animal commits cruelty to an animal, a ~~Class A~~
- 32 ~~misdemeanor~~. **Level 6 felony**. However, the offense is a ~~Level 6~~ **Level**
- 33 **5** felony if:
- 34 (1) the person has a previous, unrelated conviction under this
- 35 section; or
- 36 (2) the person committed the offense with the intent to threaten,
- 37 intimidate, coerce, harass, or terrorize a family or household
- 38 member.
- 39 (c) A person who knowingly or intentionally tortures or mutilates a
- 40 vertebrate animal commits torturing or mutilating a vertebrate animal,
- 41 a ~~Level 6~~ **Level 5** felony.
- 42 (d) As used in this subsection, "domestic animal" means an animal



- 1 that is not wild. The term is limited to:
- 2 (1) cattle, calves, horses, mules, swine, sheep, goats, dogs, cats,
- 3 poultry, ostriches, rhea, and emus; and
- 4 (2) an animal of the bovine, equine, ovine, caprine, porcine,
- 5 canine, feline, camelid, cervidae, or bison species.
- 6 A person who knowingly or intentionally kills a domestic animal
- 7 without the consent of the owner of the domestic animal commits
- 8 killing a domestic animal, a ~~Level 6~~ **Level 5** felony.
- 9 (e) It is a defense to a prosecution under this section that the
- 10 accused person:
- 11 (1) reasonably believes the conduct was necessary to:
- 12 (A) prevent injury to the accused person or another person;
- 13 (B) protect the property of the accused person from destruction
- 14 or substantial damage; or
- 15 (C) prevent a seriously injured vertebrate animal from
- 16 prolonged suffering; or
- 17 (2) engaged in a reasonable and recognized act of training,
- 18 handling, or disciplining the vertebrate animal.
- 19 (f) When a court imposes a sentence or enters a dispositional decree
- 20 under this section, the court:
- 21 (1) shall consider requiring:
- 22 (A) a person convicted of an offense under this section; or
- 23 (B) a child adjudicated a delinquent child for committing an
- 24 act that would be a crime under this section if committed by an
- 25 adult;
- 26 to receive psychological, behavioral, or other counseling as a part
- 27 of the sentence or dispositional decree; and
- 28 (2) may order an individual described in subdivision (1) to receive
- 29 psychological, behavioral, or other counseling as a part of the
- 30 sentence or dispositional decree.

